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Series:	Sununu, John, Files
Subseries:	White House Offices Files

OA/ID Number:	29180
Folder ID Number:	29180-009

Folder Title:
Policy Development (1989) [1]

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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	From Roger Porter to John Sununu Re: Section 301 Developments, May 24, 1989 P.M. (2 pp.)	5/24/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

**Open on Expiration of PRA
(Document Follows)**
 By DSC (NLGB) on 5/12/2005

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
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RESTRICTION CODES

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

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THE WHITE HOUSE

WASHINGTON

May 24, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RBP*
SUBJECT: Section 301 Developments
May 24, 1989 P.M.

The saga of Section 301 continues. The latest developments include word from three fronts: State, USTR, and Treasury.

1. Secretary Baker called to indicate that:

- a. He was adamant that any Structural Impediments Initiative (whether designated as new or as a follow-on to the structural discussions with Japan conducted between 1985 and 1988) include State as a co-chair.

He cited the precedent of State co-chairing this effort and most importantly the resources that State can bring to bear on the issues which he said are greater than either Treasury or USTR.

- b. He would go to the President if State were excluded from chairing the committee.
- c. He was indifferent whether it were couched as new or a follow-on.
- d. He was also relatively indifferent about the USTR antitrust initiative (#7), although he was strong on the notion that the Structural Impediments effort be separate from Section 301.
- e. He admitted that he could live with USTR being added as a third chair (State, Treasury, and USTR all sharing the chairmanship) of the effort.

2. Ambassador Hills called with an urgent message at 2:45 (while we were in the Domestic Policy Council meeting) to indicate that:

- a. She is distressed that non-lawyers who do not understand antitrust law seem so dead against her antitrust initiative proposal.

- b. She has spoken with Senators Bentsen and Danforth and feels that without the antitrust initiative the package will be viewed as "too small" on the Hill and will not get a positive reaction.
 - c. She clearly wants another opportunity to discuss this matter with the President or at a minimum to have someone she considers an advocate make her points on her antitrust initiative.
 - d. She is "certain" that it will not result in retaliation and that she can "keep it under control."
3. Secretary Brady has sent over language concerning the Structural Impediments Initiative which has been incorporated into the draft presidential statement.
- a. He remains opposed to the antitrust initiative by USTR under Section 301.

The remaining decisions that are needed are:

- 1. Whether to include the USTR antitrust initiative.
- 2. Whether to announce creation of the separate Structural Impediments Initiative.
- 3. If so, who to have chair the Structural Impediments Initiative.

Withdrawal/Redaction Sheet

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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Memo	From C. Boyden Gray to POTUS Re: Antitrust Laws and Super 301 (1 pp.)	5/24/89	P-5	

Collection:

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Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
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 By DX (NLGB) on 4/10/2008

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THE WHITE HOUSE

WASHINGTON

1989 MAY 24 PM 2:04

May 24, 1989

MEMORANDUM FOR THE PRESIDENT

FROM: C. BOYDEN GRAY *cmh*
COUNSEL TO THE PRESIDENT

SUBJECT: Antitrust Laws and Super 301

As a former antitrust lawyer in real life, I feel I should support Treasury's position that antitrust law should not be cited under Section 301.

The practices mentioned (group boycotts, market allocation, bid-rigging) are judge-made rules crafted primarily in private litigation, not proscriptions spelled out in the Sherman Act itself, which is very simple (only about two short paragraphs that forbid monopolization and conspiracies in restraint of trade without defining anything).

A Super 301 complaint framed in antitrust terms will appear to be a demand that Japan adopt our own complex and evolving antitrust precedents which have never been codified or accepted internationally. Such a demand would be hard to explain or justify; it is unlikely to produce quick or measurable results; and it would clash with Congress' own statement (in the legislative history) that Section 301 is not intended "to enforce upon foreign governments U.S. concepts of antitrust law...."

Withdrawal/Redaction Sheet

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03. Memo	From Roger Porter to POTUS Re: Structural Impediments Initiative (1 pp.)	5/24/89	P-5	

Collection:

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THE WHITE HOUSE

WASHINGTON

May 24, 1989

MEMORANDUM FOR THE PRESIDENT

FROM: ROGER B. PORTER *RBP*
SUBJECT: Structural Impediments Initiative

Governor Sununu asked me to report to you the content of a telephone call I just received from USTR regarding the chairmanship of the Structural Impediments Initiative that is under consideration as part of the announcements tomorrow.

While there is agreement that this Structural Impediments Initiative with Japan should clearly be separated from the actions taken with respect to Section 301, USTR feels that the Congress will react very differently to the announcement depending on what agencies are viewed as leading the effort.

If the effort is lead by State and Treasury alone, USTR is convinced it will have a very different reception than if all three agencies (State, Treasury, and USTR) are identified as leading the effort.

Both Secretary Baker and Secretary Brady are willing (although with limited enthusiasm) to go along with such an arrangement.

If you decide to approve such an arrangement we will modify the final paragraph (the optional paragraph at the bottom of page two and the top of page three) of the draft statement.

cc: Governor Sununu

Withdrawal/Redaction Sheet

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04a. Memo	From Roger Porter to John Sununu Re: Section 301 Developments (1 pp.)	5/24/89	P-5	

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THE WHITE HOUSE

WASHINGTON

May 24, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RBP*
SUBJECT: Section 301 Developments

As I mentioned briefly following this morning's Senior Staff meeting, Secretary Brady called again last night and sent over the note attached concerning whether the President should endorse the USTR "competitive practices" initiative against Japan. (Tab A)

Secretary Brady, as I noted in my memorandum to you yesterday evening, is at least as strongly opposed to including this in the announcement as Ambassador Hills is in support of it. A copy of my memorandum to you is attached at Tab B.

Finally, I have reviewed the attached draft "Statement by the President" with Dick Darman and Michael Boskin as well as Jim Cicconi. Before I circulate it further, or give it to Jim for White House staffing, I believe that we need to get a better indication of where the President is coming out on this issue, particularly given the number of leaks in recent days. The draft statement is attached at Tab C.

Attachments

Withdrawal/Redaction Sheet

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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
04b. Memo	From Nick Brady to John Sununu, Roger Porter Re: Section 301 Proceedings (1 pp.)	5/23/89	P-5	

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MEMORANDUM FOR *Messrs Lamm & Porter*

FROM: *RFL*

SUBJECT:

Why we should not include "competitive" or antitrust issues in a 301 proceeding:

1. Extending 301 to these matters will establish a harmful precedent for Congressional involvement and pressure in broad areas well beyond the narrow "product specific" boundaries of 301. Including antitrust and other structural matters in 301 will invite Congress to expand 301 into new areas. Once Congress has this purview, we will never be able to get it back -- ever. We should instead keep the 301 process focused on very specific practices.

2. It is not wise to deal with these complex issues in the "fix it in a year or we'll retaliate" framework of 301. We will be called on by Congress to measure progress in these areas in a very specific way. If results cannot be "proven" Congress will want us to retaliate. There is no reason to volunteer for this kind of duty.

3. Dealing with antitrust and similar structural issues will be perceived as interfering in the internal affairs of another country. Trying to tell another sovereign nation how to enforce their antitrust laws is internal meddling and paternalistic. Can you imagine what U.S. reaction would be if Japan told us that we should enforce our antitrust laws in a certain way or they would retaliate with some trade barrier?

Withdrawal/Redaction Sheet

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04c. Memo	From Roger Porter to John Sununu Re: Super 301 Developments (2 pp.)	5/23/89	P-5	

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THE WHITE HOUSE
WASHINGTON

(A)

May 23, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RB*
SUBJECT: Super 301 Developments

Lengthy private conversations today with Ambassador Hills and Secretary Brady revealed a sharp difference of opinion over what may well be the most contentious issue facing the President in the Super 301 decisions he must make this week. The issue is USTR's proposal to identify Japanese anti-competitive practices as a priority practice under Super 301. (Issue No. 4 in the EPC Options paper.)

Ambassador Hills strongly favors initiating an anti-competitive practices investigation under section 301 focused on antitrust enforcement.

- o Her central argument in favor of the USTR proposal is that it lends greatly enhanced credibility to the package, since it (a) supplements the minimalist approach of the six priority practices, and (b) involves a novel use of section 301.
- o Her second argument is that achieving progress on this initiative is highly probable, since it does not require changes in Japanese law, only more effective enforcement. She believes that the Japanese Fair Trade Commission would be receptive to such a nudge by the United States.
- o Finally, she believes that failure to include this provision will lead Congress to view the package as unresponsive and could lead to Congressional removal of the section 301 discretion afforded under the 1988 Omnibus Trade Act as well as to attempts to rescind the President's

fast-track negotiating authority for the Uruguay Round.

Secretary Brady argues against the proposal on the following grounds:

- o It departs significantly from the normal use of section 301 by embracing a generic type of economic activity or set of institutional arrangements, rather than a specific unfair trade practice.
- o It might well encourage future Congressional interventions in section 301 and at a minimum would establish an unfortunate precedent and lead to calls for similar generic interventions in future years in other areas.
- o Brady views this precedent so dimly that he would personally favor naming Japan as a priority country rather than agreeing to include the USTR anti-competitive practices initiative as a priority practice.

He specifically told me that he wants to discuss this issue with the President if the President is inclined to support the USTR initiative.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
04d. Statement	Draft Statement by the President Re: Super 301 (2 pp.)	5/25/89	P-5	

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DRAFT

C

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

May 25, 1989

STATEMENT BY THE PRESIDENT

Today the United States Trade Representative will submit to the Congress a report concerning actions to be taken under the so-called Super 301 provisions of the Omnibus Trade and Competitiveness Act of 1988. Those provisions require the identification of trade liberalization priorities for investigation and negotiation.

I have discussed this matter extensively with Ambassador Hills and the members of the Economic Policy Council. We agreed that the Super 301 provisions should be used 1) as a tool to open foreign markets, and 2) in support of the objectives of the United States in the on-going Uruguay Round of trade negotiations of the General Agreement on Tariffs and Trade. This approach is designed to be consistent with the intent of Congress in drafting the legislation.

The list below indicates the specific priorities that can most effectively be addressed under Super 301. The practices are grouped under headings that correspond to major types of trade barriers and distortions the United States is working to eliminate in the Uruguay Round. The list also indicates the countries that maintain each of these practices.

Super 301 Priorities

Quantitative restrictions/
import licensing

1. Licensing of agricultural and
manufacturing products.....Brazil

Government procurement

2. Satellites.....Japan
3. Supercomputers.....Japan

Standards

4. Forest products.....Japan

Services

5. Insurance.....India

Investment

6. Investment restrictions.....India

OPTIONAL:

[Anticompetitive practices]

- [7. Bid-rigging/market allocation/
group boycotts.....Japan]

A satisfactory resolution of the above issues will significantly advance the objectives of U.S. trade policy. Our goal is to open markets and eliminate unfair trade barriers. We oppose protectionism in any and all forms. Therefore, I urge the governments who maintain these trade practices to work constructively with us to satisfactorily resolve these issues. The process of investigating and negotiating on each of these practices will begin by June 17.

We also considered carefully a large number of practices that are not listed. In several cases we decided that we could best pursue remedying these practices multilaterally in the Uruguay Round of trade negotiations. Two examples are EC airbus subsidies and Japanese rice quotas.

The Uruguay Round of the GATT continues to be the centerpiece of our trade strategy. While the lack of effective multilateral rules and enforcement mechanisms has forced us to resort to section 301, we look forward to the day when such actions will be unnecessary.

OPTIONAL PARAGRAPH:

[Finally, I want to announce today a new Administration initiative with Japan. I have directed Ambassador Hills and Secretary Brady to request high-level discussions with the Government of Japan on structural impediments to trade and balance-of-payments adjustment. This exercise will focus on structural barriers to imports. The negotiations sought by the United States in this Structural Impediments Initiative will address broader issues and will take place outside section 301, which appropriately deals with the investigation and resolution of particular unfair trade practices.]

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Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
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By DJL (NLGB) on 5/12/2005

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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

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MEMORANDUM FOR

Messrs Lamm & Porter

FROM:

RJA

SUBJECT:

Why we should not include "competitive" or antitrust issues in a 301 proceeding:

1. Extending 301 to these matters will establish a harmful precedent for Congressional involvement and pressure in broad areas well beyond the narrow "product specific" boundaries of 301. Including antitrust and other structural matters in 301 will invite Congress to expand 301 into new areas. Once Congress has this purview, we will never be able to get it back -- ever. We should instead keep the 301 process focused on very specific practices.

2. It is not wise to deal with these complex issues in the "fix it in a year or we'll retaliate" framework of 301. We will be called on by Congress to measure progress in these areas in a very specific way. If results cannot be "proven" Congress will want us to retaliate. There is no reason to volunteer for this kind of duty.

3. Dealing with antitrust and similar structural issues will be perceived as interfering in the internal affairs of another country. Trying to tell another sovereign nation how to enforce their antitrust laws is internal meddling and paternalistic. Can you imagine what U.S. reaction would be if Japan told us that we should enforce our antitrust laws in a certain way or they would retaliate with some trade barrier?

DRAFT

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

May 25, 1989

STATEMENT BY THE PRESIDENT

Today the United States Trade Representative will submit to the Congress a report concerning actions to be taken under the so-called Super 301 provisions of the Omnibus Trade and Competitiveness Act of 1988. Those provisions require the identification of priority practices and countries for the self-initiation of investigations under section 301.

I have discussed this matter extensively with Ambassador Hills and the other members of the Economic Policy Council. We agreed that the Super 301 provisions should be used 1) as a tool to open foreign markets, and 2) in support of the objectives of the United States in the on-going Uruguay Round of trade negotiations of the General Agreement on Tariffs and Trade. This approach is designed to be consistent with the intent of Congress in drafting the legislation.

The list below indicates the specific priority practices and countries that can most effectively be the subjects of investigations under section 301. The priority practices are grouped under headings that correspond to major types of trade barriers and distortions the United States is working to eliminate in the Uruguay Round. The priority countries have been selected on the basis of the number and pervasiveness of significant barriers to U.S. exports.

Super 301 Priority Practices and Countries

Quantitative restrictions/
import licensing

1. Licensing of agricultural and
manufactured products.....Brazil

Government procurement

2. Satellites.....Japan
3. Supercomputers.....Japan

Standards

4. Forest products.....Japan

Services

5. Insurance.....India

Investment

6. Investment restrictions.....India

A satisfactory resolution of the above issues will significantly advance the objectives of U.S. trade policy. Our goal is to open markets and eliminate trade barriers. We oppose protectionism in any and all forms. Therefore, I urge the governments of Japan, India, and Brazil to work constructively with us to resolve these issues expeditiously. The process of investigating and negotiating with priority countries on each of the priority practices will begin by June 15.

We also considered carefully a large number of practices that are not listed. In several cases we decided that we could best pursue remedying these practices multilaterally in the GATT or in the Uruguay Round of trade negotiations. Two examples are EC airbus subsidies and Japanese rice quotas.

The Uruguay Round of the GATT continues to be the centerpiece of our trade strategy. While the lack of effective multilateral rules and enforcement mechanisms has forced us to resort to section 301, we look forward to the day when such actions will be unnecessary.

Finally, I want to announce today a separate Administration initiative with Japan. I have directed the Secretaries of State and Treasury and the U.S. Trade Representative to form a high-level committee to include Commerce and other interested agencies to propose negotiations with Japan on structural adjustment matters. Such matters include structural impediments to trade, balance-of-payments adjustment, and such issues as bid-rigging, market allocation, and group boycotts. These negotiations would initially focus on major structural barriers to imports such as rigidity in the distribution system and pricing mechanisms. The negotiations sought by the United States in this Structural Impediments Initiative will address broader issues and will take place outside section 301, which appropriately deals with the investigation and resolution of particular unfair trade practices.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
05. Memo	From Roger Porter to John Sununu Re: Super 301 Developments (2 pp.)	5/23/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
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By DSL (NLGB) on 5/12/2005

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THE WHITE HOUSE

WASHINGTON

May 23, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RBP*

SUBJECT: Super 301 Developments

Lengthy private conversations today with Ambassador Hills and Secretary Brady revealed a sharp difference of opinion over what may well be the most contentious issue facing the President in the Super 301 decisions he must make this week. The issue is USTR's proposal to identify Japanese anti-competitive practices as a priority practice under Super 301. (Issue No. 4 in the EPC Options paper.)

Ambassador Hills strongly favors initiating an anti-competitive practices investigation under section 301 focused on antitrust enforcement.

- o Her central argument in favor of the USTR proposal is that it lends greatly enhanced credibility to the package, since it (a) supplements the minimalist approach of the six priority practices, and (b) involves a novel use of section 301.
- o Her second argument is that achieving progress on this initiative is highly probable, since it does not require changes in Japanese law, only more effective enforcement. She believes that the Japanese Fair Trade Commission would be receptive to such a nudge by the United States.
- o Finally, she believes that failure to include this provision will lead Congress to view the package as unresponsive and could lead to Congressional removal of the section 301 discretion afforded under the 1988 Omnibus Trade Act as well as to attempts to rescind the President's

fast-track negotiating authority for the Uruguay Round.

Secretary Brady argues against the proposal on the following grounds:

- o It departs significantly from the normal use of section 301 by embracing a generic type of economic activity or set of institutional arrangements, rather than a specific unfair trade practice.
- o It might well encourage future Congressional interventions in section 301 and at a minimum would establish an unfortunate precedent and lead to calls for similar generic interventions in future years in other areas.
- o Brady views this precedent so dimly that he would personally favor naming Japan as a priority country rather than agreeing to include the USTR anti-competitive practices initiative as a priority practice.

He specifically told me that he wants to discuss this issue with the President if the President is inclined to support the USTR initiative.

Withdrawal/Redaction Sheet

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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
06. Memo	From Carla Hills to POTUS Re: Super and Special 301 (2 pp.)	5/18/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
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 By DJL (NLGB) on 4/10/2008

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THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20508

RECEIVED 10 11 00 1

May 18, 1989

MEMORANDUM FOR THE PRESIDENT

FROM: CARLA A. HILLS *CH*
SUBJECT: SUPER AND SPECIAL 301

By May 28, the U.S. Trade Representative must identify priority practices and priority countries under the "Super" and "Special" 301 provisions of the 1988 Trade Act. In preparation for your May 22 meeting with the EPC on this subject, this memorandum provides brief background on the statutory mandate.

I. THE STATUTEIdentifying Priorities

The Super 301 process is required only this year and next. The first step in the process was preparation of the National Trade Estimate (NTE) Report, which was released on April 28, 1989. The 214-page NTE Report is an inventory of significant trade barriers in 34 countries and 2 trading blocs.

Drawing on the NTE Report, by May 28, the USTR must submit to Congress another report identifying "trade liberalization priorities," including specific "priority practices" and "priority countries."

- o Priority practices are defined as those the elimination of which is likely to have "the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent."
- o Priority countries are to be identified taking into account U.S. export potential and "the number and pervasiveness" of the barriers listed in the NTE Report.

Initiating Investigations

Within 21 days after submitting the report of priorities to the Congress (no later than June 18), the USTR must initiate a section 301 investigation on every priority practice of a

priority country. In addition, the USTR may initiate investigations of priority practices of non-priority countries. The statute requires that we seek to negotiate agreements which provide for the elimination of, or compensation for, the practice within three years.

"Unfairness" Determination and Retaliation

If within 12 to 18 months negotiations are unsuccessful, the USTR must determine whether the practice is unfair. If so, the USTR must also determine whether to retaliate. There is generally no legal requirement to retaliate, but there may be considerable political pressure to do so.

II. DISCUSSION

The Super 301 provisions are widely regarded as the centerpiece of the 1988 Trade Act. Members of Congress of both parties have been extremely vocal in stating that they intended and expect an aggressive use of those provisions. They will view the May 28 decision as an indication of the Administration's resolve (or lack thereof) to eliminate the most egregious barriers to U.S. exports.

Our trading partners, on the other hand, argue that Super 301 is a device for imposing an American concept of "fairness" on the rest of the world. They view this as an exercise in unilateralism that threatens retaliation in a manner that is inconsistent with U.S. support for the multilateral trading system.

III. ISSUES FOR DECISION

Two principal sets of issues will be discussed with you on Monday: (1) which countries, if any, should be identified as "priority countries," and (2) which practices should be identified as "priority practices?"

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
07. Memo	From Michael Boudin to the Attorney General Re: Implementation of the "Super 301" and "Special 301" Provisions of the 1988 Trade Act (6 pp.)	5/15/89	P-5	

Collection:

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Office of the Assistant Attorney General

Washington, D.C. 20530

MB:CSS

May 15, 1989

MEMORANDUM FOR THE ATTORNEY GENERAL

Subject: Implementation of the "Super 301"
and "Special 301" Provisions of the
1988 Trade Act

Information Memorandum

Summary

A memorandum will be circulated to the Economic Policy Council ("EPC") today or tomorrow concerning the Administration's implementation of the "Super 301" and "Special 301" provisions of the 1988 Trade Act. The Division has seen drafts of the memorandum but will not see the final version before it is circulated to you. There will probably be an EPC meeting on tomorrow or Wednesday to discuss these important trade policy matters, and on Thursday or Friday there may be a further EPC meeting, which the President may attend, to finalize the Administration's position. The EPC paper is the product of lengthy interagency staff level and Trade Policy Review Group ("TPRG") meetings at which the Division has represented the Department. Many of the issues discussed in the EPC paper do not implicate significant Department interests; in our view, however, a few of the proposed trade actions do pose significant competition policy and other law enforcement concerns for the Department. This memorandum briefly discusses the "Super 301" and "Special 301" process, and focusses on the issues that we believe are of most concern to the Department.

The Super 301 Statute and Process

The "Super 301" provisions of the Omnibus Trade Act of 1988, 19 U.S.C. § 2420, require the U.S. Trade Representative ("USTR"): (1) to identify by May 30, 1989 (and again by May 1990) those "priority practices" of foreign governments, including major barriers and trade distorting practices, that, if eliminated, would have the most significant potential to increase U.S. exports; (2) to identify by May 30, 1989 (and May 1990) "priority countries," after taking into account the number and pervasiveness of barriers to U.S. exports in that country and the expected

level of U.S. exports if that country were fully implementing existing trade agreements; and (3) to initiate by June 20, 1989 (and May 1990) investigations under section 301 of the Trade Act of 1974, 19 U.S.C. § 2411, et seq.; on all "priority practices" of each "priority country." In addition, USTR may initiate section 301 investigations on any "priority practices" of countries not designated as "priority countries". These investigations would then follow the same procedures as normal section 301 investigations.

Section 301 authorizes USTR, subject to the direction of the President, to retaliate against a foreign country (e.g., through imposing import duties or other import restrictions) if the acts, policies or practices of such country deny U.S. rights under any trade or other legal agreement or are "unjustifiable, unreasonable or discriminatory and burden or restrict U.S. commerce." USTR must determine within 12-18 months (depending on the type of investigation) whether the standards for action under section 301 have been met. If the foreign country (in Super 301 terms, a "priority" country) has denied rights to the U.S. under a trade agreement or has engaged in "unjustifiable" practices that burden U.S. commerce, then USTR must retaliate against such country, subject to certain exceptions, unless the problem is resolved. With regard to determinations of "unreasonable" or "discriminatory" practices, retaliation is discretionary.

Super 301 Issues

A. Naming of Priority Countries

In enacting the Omnibus Trade Act of 1988, Congress clearly expected that Japan (and possibly other countries) would be designated as a "priority country." However, given the mandatory retaliation aspects of "priority country" designation, several agencies are uncomfortable with so designating any country (including Japan), and would prefer to initiate selected section 301 investigations based on the most worthy candidates on the "priority practices" list. Thus, there is some agency support for positions extending from naming no countries as priority countries to naming all countries (as many as six) with priority practices as priority countries. A legal question has been raised as to whether the statute requires that at least one country be designated a "priority country." USTR believes that the statute requires that a priority country -- possibly more than one -- be named. Our view is that the statute does not require that any countries be so designated and that, in any event, Congress probably could not constitutionally require the President to do so. However, given Congress' expectation that at least Japan should be designated, the decision is essentially a political one. We do not have strong feelings on the outcome of this political debate.

B. Designating Priority Practices

The TPRG process has identified less than 20 "priority practice" candidates, with approximately seven of these aimed at Japan. For the most part, we do not have any strong interest in whether or not these candidates are designated as "priority practices." Given the vague statutory criteria, in many cases it is difficult to identify obviously "right" or "wrong" solutions. However, as discussed below, we do have concerns about four of these candidates: (1) EC Airbus, (2) Japan Systemic, (3) Japan Semiconductors; and 4) Japan Supercomputers. The first two -- EC Airbus and Japan Systemic -- present the most serious issues.

1) EC - Airbus

The United States has been negotiating for some time with the European Community, Britain, France, West Germany, and Spain in an effort to improve disciplines on government subsidies for Airbus airliners and on other EC government interventions in the commercial aircraft marketplace. Over time, the Europeans have offered some concessions concerning new subsidies to Airbus, but they have refused to make Airbus repay the billions of dollars of subsidies that they have provided over the years, or to commit not to give any further subsidies to Airbus. Commerce and Labor (and perhaps USTR) propose to initiate a "Super 301" case against the EC with respect to Airbus.

The Division (with the support of several other agencies) strongly opposes such a case. Indeed, the aircraft industry itself, which is awash in orders for new aircraft, generally opposes such a case. In our view, if a case is initiated, the EC is unlikely to make significant concessions on past subsidies or to foreswear any new ones, and the Administration will then be faced with three very bad alternatives: (1) trade retaliation on billions of dollars of EC goods, and a resulting trade war that would seriously damage both the U.S. aircraft industry, which currently makes many sales to EC countries, and our overall relationship with our closest allies; (2) an abject U.S. retreat in the face of EC intransigence; or (3) acquiescence in the EC's previous suggestion that the issue be resolved through a price-fixing or market allocation agreement involving Boeing, McDonnell Douglas, and Airbus -- a cartel solution that would seriously inflate costs for U.S. airlines and U.S. airline passengers.

The Division's opposition to naming Airbus is even greater if EC is also named as a priority country. This is so because, as explained above, priority practices of priority countries must be investigated and more pressure exists to retaliate at the end of the investigation.

2) Japan - Systemic

Most of the TPRG sessions focused on individual practices of individual countries, as the statute contemplated. Very recently, however, USTR has proposed designating as Japan's sole or main priority practice a vaguely described "systemic barriers" case. USTR's reasons for this proposed last-minute shift are (1) an underlying belief that the results show that Japan is doing something wrong (besides being very efficient); (2) a judgment that this "lumping" of practices will provide negotiating leverage; and (3) probably frustration of being unable to identify very many good industrial-practice cases.

Without committing the Department, the Division has pointed out that this systemic approach creates multiple dangers in moving away from identifying and remedying specific unfair practices. In particular, the approach blurs the analysis needed to separate efficient from unfair practices and it invites broad-scale quota arrangements to "remedy" non-existent misconduct. Thus, the approach appears unsound when viewed from the standpoint of trade policy and competition. However, the systemic approach probably does have some political advantages, notably by broadening and dramatizing U.S. concern with the range of barriers to U.S. commerce in Japan. This issue, on which the State Department may support USTR and Commerce almost certainly will, is a policy call where our own interests may well not predominate.

We would, however, be quite concerned if the systemic approach were described in any USTR report to Congress, or pursued in negotiations, by labeling as "anticompetitive" specific practices that are efficient and procompetitive, both in the U.S. and Japan. While vigorously prosecuting anticompetitive behavior, the Division has tried hard to avoid interfering with business conduct that serves consumers, such as discounting that lowers costs and non-price vertical practices that enhance competition.

Treasury seems to agree with many of USTR's concerns about systemic barriers, but is not sure that Super 301 is the appropriate vehicle for solving structural problems, as USTR seems to contemplate. Accordingly, Treasury will circulate a paper to the EPC, and discuss at the EPC meeting, its own proposal for establishing a high-level U.S.-Japan working group (probably led by Treasury) to identify and eliminate causes of structural rigidities in the Japanese economy that create impediments to balance of payments adjustment in both countries. Treasury has not yet decided how its "Structural Impediments Initiative" should be integrated with the Super 301 exercise, but Secretary Brady presumably will make some proposals at the EPC meeting.

3) Japan - Semiconductors

This proposed case involves Government of Japan ("GOJ") compliance with the 1986 U.S.-Japan Semiconductor Arrangement ("Arrangement"), particularly with the terms of a side-letter which states GOJ expectations that the U.S. share of the Japanese semiconductor market would steadily increase from about 9% in 1986 to over 20% by 1991. In 1987, President Reagan acted under Section 301 to impose 100% import duties on approximately \$165 million of Japanese imports because the GOJ had failed to secure adequate increases in U.S. market share in Japan pursuant to the Arrangement. Those duties remain in effect. However, some agencies want to initiate a new section 301 investigation based on the continued lagging of U.S. market share in Japan (currently around 11%) and the increased export losses associated with the smaller than expected market share.

We recommend opposing the designation of semiconductors as a priority practice. From a competition policy standpoint, we find objectionable the use of Super 301 to enforce a market-share-oriented arrangement, especially when, as here, the purchasing decisions are in the hands of private Japanese firms and not within the direct control of the GOJ. Furthermore, since 1987, U.S. semiconductor sales in Japan (as opposed to market share) have increased by over 60%. Finally, the USG has already retaliated against the GOJ's non-fulfillment of our market share expectations and we believe it to be inappropriate to initiate another section 301 action for essentially the same "violation."

4) Japan - Supercomputers

Despite a GOJ agreement in 1987 to use open and transparent bidding procedures in its procurement of supercomputers, U.S. producers have never made a sale in the Japanese public sector market (although U.S. firms have obtained a 25% share of the private sector market in Japan). The GOJ has followed the agreed-upon procurement procedures, but U.S. firms have been underbid on each procurement. We do not object to designating as a "priority practice" the GOJ toleration of "predatory pricing" (in the antitrust sense) by Japanese firms in the Japanese public sector market. However, we recommend that you oppose a case if the objective is to eliminate mere price discounting by Japanese firms, or if the focus goes beyond GOJ procurement to sales in the U.S. or third country markets, since such a focus could easily lead to a price-fixing arrangement that would inflate costs for U.S. businesses and research facilities that use supercomputers.

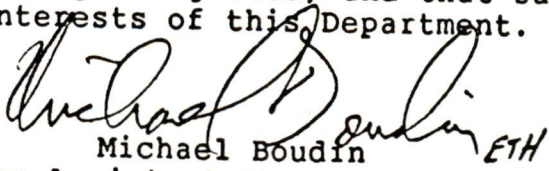
Special 301

Section 1303 of the 1988 Trade Act, 19 U.S.C. § 2242 ("Special 301"), serves much the same function with respect to foreign trade barriers to U.S. intellectual property rights

("IPR") as Super 301 serves with respect to other barriers. Under Special 301, the Trade Representative each year must (a) identify foreign countries that deny adequate protection to U.S. IPR, or deny fair and equitable market access to U.S. persons who rely upon IPR protection, and (b) determine which of those countries so identified should be designated "priority" countries." If USTR identifies a country as a priority, it must initiate section 301 trade action against that country; if no satisfactory resolution of the country's unfair IPR practices is achieved within six months, USTR must institute trade retaliation against that country's exports to the U.S.

The interagency process has yielded an extra-statutory "watch list" of countries where the U.S. encounters the most serious intellectual property or market access problems, and a "priority" list of countries as to which trade cases are to be initiated. The TPRG reached consensus that the "watch" list, which will place countries on notice that we are especially concerned about their IPR regimes, should contain 25 specified countries (including those also proposed for the "priority" list). As to the "priority" list, the TPRG failed to reach consensus concerning which, if any, countries to name. Many agencies believe that one or more of Brazil, China, and India should be placed on the list because of their long history of egregious lack of protection for U.S. IPR, and some agencies may support placing Taiwan on the list. Commerce favors placing Colombia, Italy, Korea, Mexico, Saudi Arabia, and Thailand on the "priority" list, as well as the four countries previously mentioned, but no other agency appears to support that result. Indeed, USTR may propose that no countries at all should be designated at this time, in order to avoid damaging U.S. prospects for achieving increased IPR protection in the current GATT negotiations. USTR may also propose that we revisit IPR designations in six months, if none or only a few countries are named now.

The protection of U.S. IPR rights is important to U.S. competition policy, and we believe that India and/or China deserve to be designated as "priority" countries under Special 301. However, the Division does not have a strong interest in the designation or non-designation of any of the ten countries being considered for "priority" status. We note that some of our trading partners (including Colombia, Mexico, and Thailand) may react negatively to being designated, and that such a reaction might affect other interests of this Department.


Michael Boudin ETH
Acting Assistant Attorney General

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
08a. Memo	From Roger Porter to John Sununu Re: Education Policy Advisory Committee (3 pp.)	6/1/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DSC (NLGB) on 5/12/2005

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
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RESTRICTION CODES

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

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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

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THE WHITE HOUSE

WASHINGTON

June 1, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RBP*

SUBJECT: Education Policy Advisory Committee

One of our principal domestic policy objectives is to establish both the reality and the perception of George Bush as the Education President. The President expressed this interest and desire throughout the campaign and has repeated it on numerous occasions since taking office.

Education initiatives played a prominent role in his February 9 Address to the Joint Session of Congress outlining his economic and domestic priorities. He also personally transmitted to the Congress his legislative proposals, the Education Excellence Act of 1989, and has made numerous trips and visits to reinforce his interest and concern about education.

Thus far, in my view, too much of the education debate has revolved around dollars and whether the spending total for our initiatives, \$441 million, is sufficient and constitutes a real commitment to education. We have responded that spending on education, currently \$330 billion for all levels of government, is adequate, but that fundamental changes in the structure and thrust of our education system are needed.

Moreover, we have argued that many of these changes must be brought about by state and local governments, and by the involvement of parents, teachers, business organizations, and other community groups. We have suggested that a partnership is needed if we are to produce the results we desire.

Reinforcing these themes remains a persistent challenge for us. Using the bully pulpit is one means. There is a constant need to show presidential interest and attention and to demonstrate that he and his administration are engaged in dealing with this problem. For the past several weeks, we have discussed from time to time another means of accentuating the President's personal interest in education, establishing a presidential advisory committee on education policy.

In most instances, I am easily able to restrain my enthusiasm for advisory committees. There are over 900 across the executive branch. Some perform useful work; many are little more than window dressing. Thus far, we have chosen not to create any new presidential ones, or to reestablish ones which have expired, such as the President's Economic Policy Advisory Board.

There is, however, I believe a good case to be made for establishing one on education policy. In our discussions with Secretary Cavazos, he agrees.

Such an advisory committee would:

1. Include representatives from a wide variety of organizations -- all of which should be involved in education -- representing elementary and secondary education, post-secondary education, business, labor, the media, teachers, administrators, state and local governments, etc.;
2. Make recommendations of actions that government at all levels as well as the private sector can do to enhance the quality of education;
3. Address such questions as what accounts for the poor performance of students in math and science, particularly.

It would be patterned in its structure after the President's Economic Policy Advisory Board in the previous administration, a limited number of members (12-15) who gather approximately once every three months for meetings. Our office can provide what staff support is necessary.

John Akers of IBM has discussed the idea with both of us and has indicated a willingness to be part of such an effort. He is chairing the new Business Roundtable Task Force on Business and Education.

The perfect forum for announcing the establishment of this advisory committee is the President's remarks to the Business Roundtable next Monday evening. The draft remarks at present have nothing in them that is particularly newsworthy. This would help provide a news hook, as well as help show continued momentum on the education front.

Assuming that the President approves creating such a presidential advisory committee, its announcement could be made part of his remarks on Monday evening. A draft executive order is attached, but any executive order would need to be issued sometime later since it would not be through the clearance process by next Monday.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
08b. Executive Order	Draft: President's Education Policy Advisory Committee (2 pp.)	n.d.	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
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By DSL (NLGB) on 5/12/2005

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FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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

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PRM. Removed as a personal record misfile.

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

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DRAFT

EXECUTIVE ORDER

- - - - -

PRESIDENT'S EDUCATION POLICY ADVISORY COMMITTEE

By the authority invested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. Act 2), and advisory committee on the education policy of the United States, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the President's Education Policy Advisory Committee. The Committee shall be composed of members appointed by the President.

(b) The President shall designate a Chairman from among members of the Committee. The Assistant to the President for Economic and Domestic Policy shall serve as the Secretary of the Committee.

Sec. 2. Functions. (a) The Committee shall advise the President with respect to the objectives and conduct of the overall education policy of the United States.

(b) In the performance of its advisory duties the Committee shall conduct a continuing review and assessment of education policy, and shall report thereon to the President whenever requested.

Sec. 3. Administration. (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Committee such information with respect to education policy

matters as it may require for the purpose of carrying out its functions. Information supplied to the Committee shall, to the extent permitted by law, be kept confidential.

(b) Members of the Committee shall serve without any compensation for their work on the Committee. However, they shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701-5707).

(c) Any expenses of the Committee shall be paid from funds available for the Expenses of the Office of Policy Development.

Sec. 4. General. Notwithstanding any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, shall be performed by the President, except that, the Administrator of General Services shall, on a reimbursable basis, provide such administrative services as may be required.

(b) The Committee shall terminate on December 31, 1990, unless sooner extended.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
09. Memo	From Roger Porter to John Sununu Re: Bentsen Child Care Proposal (3 pp.)	6/1/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DTL (NLGB) on 5/14/2005

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THE WHITE HOUSE

WASHINGTON

June 1, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RB*

SUBJECT: Bentsen Child Care Proposal

The next step in the debate on child care will take place in the Senate Finance Committee on June 7. At that time the committee will markup a tax-based child care bill for floor action when the full Senate turns to the child care issue during the week of June 12. We have learned that Senator Bentsen plans to offer a new approach that may meet the President's principles while differing from the Administration's proposal in approach.

The Legislative Strategy Group meeting which you chaired on May 18 concluded that the ABC Bill was inconsistent with the President's principles and that his senior advisers would recommend a veto. That meeting further concluded that a small direct grant program of up to \$200 million might be combined with the President's proposal as a way of gaining acceptance by the Congress.

The Bentsen approach takes up our repeated willingness to be flexible on the details but firm on principle. It would:

- o Provide a new credit of 50 percent of medical insurance purchases by low income families for their children up to \$1000 per family. Families earning less than \$12,000 would receive the full credit while those earning between \$12,000 and \$21,000 would receive part of the credit.
- o Make the present Dependent Care Credit refundable as the President proposed in his package.
- o Provide for a small demonstration project of providing health insurance for children through schools.

The present estimate of the cost of this program is \$3 billion, which is roughly what the Joint Tax Committee estimates the President's proposal would cost.

Meeting the President's Principles

It appears that the Bentsen package meets the President's principles.

- o Scarce resources are targeted on those most in need.
- o There is no discrimination against families where one parent chooses to stay at home to care for the children.
- o It does not decrease the child care options available to parents.
- o Parental choice in child care is maintained.

Bentsen's Strategy

Bentsen is under instructions from Senator Mitchell not to include a grant component in any bill reported to the floor. The reason for this is to block our strategy of incorporating a grant component in our bill as an alternative to ABC. Instead, the Bentsen proposal could be "stapled" to ABC to provide a "comprehensive" child care package which could cost up to \$6 billion.

Bentsen is not an ABC enthusiast. He has placed himself in a no lose situation. He has met his obligations to Mitchell and Dodd. He has produced a bill consistent with the President's principles and has addressed a children's issue which he considers more important than child care. Bentsen has also met the philosophical concerns of his committee about providing funds to parents with no strings attached.

Essentially, our supporters and the supporters of ABC will have to fight it out to determine whether the Bentsen approach stands alone or whether ABC becomes attached.

Our Options

We have three options:

- o CHALLENGE. We can say that it is not the President's proposal and cannot support it. After all, it has little to do with child care.
- o EMBRACE. We can support this proposal as the most acceptable option we are likely to get from the Senate.
- o MODIFY. We can attempt to alter parts of the Bentsen proposal in order to make it more compatible with our approach.

Actions Underway

I have directed my staff to analyze the Bentsen bill in detail. In particular, we are concerned with whether the groups we sought to benefit with the President's plan are also the primary beneficiaries of the Bentsen plan.

It is also important for someone to have a face-to-face meeting with Senator Bentsen and with Senator Packwood. Our legislative affairs staff is meeting with the staffs of those Senators. Secretary Dole has already scheduled a meeting with Senator Packwood.

We must assess this situation shortly after you return.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
10. Memo	From Roger Porter to John Sununu Re: Textiles (1 pp.)	6/1/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DJL (NLGB) on 5/12/2005

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THE WHITE HOUSE

WASHINGTON

June 1, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RBP*
SUBJECT: Textiles

As you may have been told by Senator Helms or others, the textiles industry believes that in your early April meeting with them you agreed to support legislation on textiles imports. While White House participants at the meeting are emphatic that no such commitment was made or implied, you are likely to face continuing pressure for a quick decision at the political level to resolve the industry's concerns.

USTR's textiles negotiator (Ron Sorini) has met several times over the past six weeks with industry representatives, with the declared objective of better understanding the industry's perceived problem and proposed solution. The industry has promised to provide USTR with a definitive paper laying out its position by next week.

I believe that, in order to contain industry expectations it is important to establish a clear process within the Administration for review of the textiles industry's concerns. The model should be the process now being used for the steel industry to examine whether to extend VRA's on steel--subcabinet review by the USTR-chaired Trade Policy Review Group and subsequent consideration by the Economic Policy Council.

The industry appears willing to accept this approach, but wants to schedule a meeting with you on or about June 29. I believe that the internal Administration review is unlikely to be completed by then.

Recommendation

That, if requested by the industry, you agree in principle to meet with them during the summer, but defer setting a date until timing for completion of the Administration's internal review is clearer.

cc: Fred McClure
David Bates

Draft Language for Minimum Wage Veto Statement

In the discussions of this issue, my objectives have been and remain two-fold: first, to preserve job opportunities for entry-level workers seeking to get their feet on the ladder of economic opportunity; and second, to increase the take-home pay of the heads of low-income households. My proposal was designed to accomplish those twin objectives.

If the Congress remains unwilling to support this job-saving approach, I am prepared to examine with the Congress, within the confines of our fiscal limitations, changes in the Earned Income Tax Credit, which could better help the heads of low-income households.

Per David Haun, OMB-

Insert on p. 4 after para.
beginning, "It is regrettable . . .".

6/6/89
3:10p
From David Haun
& directly to Corp.

THE WHITE HOUSE

WASHINGTON

June 14, 1989

THE CHIEF of STAFF
has seen JUN 21 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RBP*

SUBJECT: State Legislative Pay Raises

While we were out West, Jim Pinkerton and Will Eagle pulled together the attached materials on recent increases in state legislative salaries which I thought would interest you.

I am also attaching a copy of the Washington Post editorial this morning which talks about a phased-in reduction in honoraria and a phased-in pay increase.

Attachments

WP 6/14/89 p. A22

Back to a Pay Raise

THE CONGRESSIONAL pay raise that Congress finally refused this year deserved to fail. Though a raise was merited, 50 percent was too much at one sitting; it was going to be approved without a vote; and it reflected the wrong view of honoraria.

The idea was that first the raise would take effect and only then would the houses abolish the honoraria with which they have sustained themselves these many years. The implication was that it was the public rather than the members who were righting a wrong, that the source of members' income mattered less than the amount and that the speaking fees from interest groups were being given up not because they made Congress seem uncomfortably like a bazaar but because the stingy public was finally agreeing to pay the members a just wage. Even then it was not clear that honoraria would be abolished cleanly. Members were already haggling around the edges: they might be willing to give up the fees, some said, but surely they'd still be allowed the free travel and plush resort stays that so many speaking trips involve, and instantly the question arose: how many days?

The vote last February didn't dispose of the honoraria-pay issue, it only postponed it. The issue has now returned, but in a vastly different congressional climate. Ethics has become this Congress' preoccupation; both houses and parties are intent on passing

legislation to reduce or seem to reduce their dependency on outside funds; and a ban on honoraria will surely be among the main provisions they debate. The question for members is, if they give up the speaking fees and otherwise limit outside earnings, as reformers propose, how can they maintain their incomes at the level the jobs deserve. That is to say, they are back (but in a different spirit) to the question with which the year so awkwardly began: how to pass a pay raise.

The latest idea seems to be to do the two things in linked stages, almost as if it were a prisoner exchange. Thus in each of the next four years the houses might give up a fourth of the honoraria to which they are now entitled, and at the same time take a comparable 10 percent increase in pay. Congressional salaries have lost about 50 percent of their purchasing power in the last 20 years; 10 percent raises even as prices would also continue to rise are of a size the public could likely accept and members support. A vote against a raise in any year would be a vote to preserve honoraria, and therefore a vote that could be labeled anti-ethics. At the least the demagogic opportunities would thus be equal on both sides.

The pay of judges and senior officials in the executive branch, which Congress has held hostage to its own, could then also rise; that too would be for government. The sooner they get on with better.

THE WHITE HOUSE
WASHINGTON

June 13, 1989

MEMORANDUM FOR ROGER PORTER

THROUGH: JIM PINKERTON 
FROM: WILL EAGLE 
SUBJECT: Recent increases in state legislative salaries

Attached is a survey of state legislative salaries drawn from data provided by the National Conference of State Legislatures.

Since 1987, 26 state legislatures have received salary increases. New York lawmakers enjoyed the largest salary rise of \$14,500, while salaries in Nebraska rose 150%!

At present, legislative salaries range from New Hampshire's flat \$100 per year and Alabama's \$10 per day to three states offering salaries above \$40,000 per year: Mississippi, Pennsylvania, and New York, which pays its legislators \$57,500, plus an additional \$75 unvouchered per diem.

#

cc: Bill Roper

State Legislative Salaries

1987 - 1989

California legislators received a raise of \$3,711 from \$37,105 to \$40,816, as well as an increase of \$13 in per diem from \$75 to \$88.

Connecticut legislators received a \$2,760 raise from \$13,200 to \$15,960 and will receive another raise of \$800 to \$16,760 as of January 1, 1990. Living expenses remain the same at \$3,500 and \$4,500 per year for Representatives and Senators respectively.

Delaware legislators pay increased from \$20,000 to \$22,173, or \$2,173, as well as receiving a \$500 boost in annual living expenses from \$5,000 to \$5,500.

Florida legislators' pay increased \$1,848 from \$18,900 to \$20,748. Per diem expenses remained the same at \$50.

Georgia increased its legislators' pay \$251 from \$10,000 to \$10,251 and above the same \$59 per diem allowed them \$4,800 in vouchered living expenses to include office space.

Hawaii boosted legislative pay a whopping \$11,400 from \$15,600 to \$27,000 as well as increased per diem from \$20 to \$55 and added a \$5,000 living expense.

Idaho legislative pay remained the same but for a raise from \$7 per day out of session to \$15.

Illinois raised legislators' salaries \$459 from \$35,152 to \$35,661. Per diem increased from \$69 to \$74.

Indiana legislators' pay remained the same while receiving a \$83 per diem, \$8 more than the previous \$75.

Iowa legislative salaries rose \$2,000 from \$14,600 to \$16,600. Per diem remained the same at \$40.

Kansas legislators receive \$57 a day, up \$3 from \$54, and a \$69 per diem, up \$4 from \$65.

Kentucky legislators' pay remained the same at \$100 a day. They received a per diem increase of \$25 from \$50 to \$75.

Maine legislators are on a cyclical progressive pay raise from \$9,000 in 1987 to \$6,000 in 1988 to \$9,900 in 1989 and \$6,600 in 1990. Per diem is a constant \$60.

Maryland is raising legislative pay \$1,000 per year from \$22,000 in 1987 to \$25,000 in 1990. Per diem has increased \$8 from \$78 to \$84.

Michigan legislators will receive a raise each year from 1987, \$38,163, \$39,881, \$42,670, \$45,450. Living expenses increase from \$7,700 to \$8,100 in 1989 to \$8,500 in 1990.

Minnesota is raising legislative pay from \$23,244 to \$25,138 in 1988, and as of January 1, 1990, pay will be \$26,395. Per diem rose \$12 from \$36 to \$48 as well as a housing benefit of up to \$450 a month.

Mississippi legislators' per diem was raised \$7 from \$69 to \$76. They still receive a salary of \$10,000.

Missouri legislators' pay was increased from \$20,244.24 to \$21,211.56, a raise of \$976.32. Per diem was \$35.

Nebraska more than doubled legislative pay from \$4,800 to \$12,000 -- a raise of \$7,200! Per diem rose \$11 from \$55 to \$66.

New Jersey legislators will receive a pay raise of \$10,000 from \$25,000 to \$35,000 in 1990. New Jersey has no per diem.

New York legislators receive \$57,500, up \$14,500 or 75% !! Per diem remained at \$75.

North Carolina raised its legislators' pay \$984 from \$10,140 to \$11,124, increased per diem \$2 to \$81, and added a \$465 per month expense allowance.

Ohio legislators receive a 5% raise every year through 1992, starting at \$33,243 in 1987 and \$36,649.95 in 1989. Ohio has no per diem.

Oklahoma boosted pay \$12,000 from \$20,000 to \$32,000 with a constant \$35 per diem.

Oregon legislative pay is increasing from \$10,812 and \$62 per diem in 1987 to \$11,244 in 1988 and \$11,460 as of April 1, 1989 with a \$66 per diem.

Pennsylvania legislators receive \$12,000 more in 1989 than in 1987, when they received \$35,000. Per diem increased \$5 from \$83 to \$88, as well as and additional \$10,000 in vouchered expenses.

South Dakota alternates pay scales during odd and even years to reflect shorter legislative sessions. In 1987 and 1988 legislative pay was \$3,200 and \$2,800 respectively. In 1989 and 1990, that pay increased to \$4,267 and \$3,733.

Tennessee raised legislators' pay \$4,000 from \$12,500 to \$16,500.

Vermont averages its legislative salaries. In 1987, legislators received \$320 a week for 18 weeks; in 1988, \$340/week for 18 weeks; in 1989, \$400/week for 17 weeks; and in 1990, \$450/week for 15 weeks. Per diem was raised from \$72.50 to \$87.

Virginia boosted legislative pay \$7,000 in 1988 from \$11,000 to \$18,000.

Washington legislators received \$13,750 in 1987 (new members \$14,500). In 1988, compensation was raised to \$15,000, and in 1989 it is \$16,500. Per diem is up from \$50 to \$66.

Wisconsin legislators received \$27,202 (new members \$29,992) and a raise in 1989 to \$31,204 -- a raise of \$4,000 (or \$1,212 for 1987 freshmen). Per diem increased \$10 from \$45.

Alphabetical Listing

State Legislative Salaries

1987 - 1989

State	Increase (\$)	Increase (%)
1. California	3,711	10
2. Connecticut	2,760	27
3. Delaware	2,173	11
4. Florida	1,848	10
5. Georgia	251	3
6. Hawaii	11,400	73
7. Illinois	459	1
8. Iowa	2,000	14
9. Maine	600 / 900 *	10
10. Maryland	3,000	14
11. Michigan	7,287	16
12. Minnesota	3,151	12
13. Missouri	976	5
14. Nebraska	7,200	150
15. New Jersey	10,000	40
16. New York	14,500	34
17. North Carolina	984	10
18. Ohio	3,407	5
19. Oklahoma	12,000	60
20. Oregon	648	6
21. Pennsylvania	12,000	34
22. South Dakota	1,067 / 933 *	33
23. Tennessee	4,000	32
24. Virginia	7,000	64
25. Washington	2,750 / 2,000 *	20 / 14
26. Wisconsin	4,000 / 1,212 *	15 / 4

* See state-by-state analysis

Ranking of (\$) Increases

State Legislative Salaries

1987 - 1989

State	Increase (\$)	Increase (%)
1. New York	14,500	34
2. Pennsylvania	12,000	34
3. Oklahoma	12,000	60
4. Hawaii	11,400	73
5. New Jersey	10,000	40
6. Michigan	7,287	16
7. Nebraska	7,200	150
8. Virginia	7,000	64
9. Tennessee	4,000	32
10. Wisconsin	4,000 / 1,212 *	15 / 4
11. California	3,711	10
12. Ohio	3,407	5
13. Minnesota	3,151	12
14. Maryland	3,000	14
15. Connecticut	2,760	27
16. Washington	2,750 / 2,000 *	20 / 14
17. Delaware	2,173	11
18. Iowa	2,000	14
19. Florida	1,848	10
20. South Dakota	1,067 / 933 *	33
21. North Carolina	984	10
22. Missouri	976	5
23. Maine	600 / 900 *	10
24. Oregon	648	6
25. Illinois	459	1
26. Georgia	251	3

* See state-by-state analysis

Ranking of (%) Increases

State Legislative Salaries

1987 - 1989

	State	Increase (\$)		Increase (%)
1.	Nebraska	7,200		150
2.	Hawaii	11,400		73
3.	Virginia	7,000		64
4.	Oklahoma	12,000		60
5.	New Jersey	10,000		40
6.	Pennsylvania	12,000		34
7.	New York	14,500		34
8.	South Dakota	1,067 / 933	*	33
9.	Tennessee	4,000		32
10.	Connecticut	2,760		27
11.	Washington	2,750 / 2,000	*	20 / 14
12.	Michigan	7,287		16
13.	Wisconsin	4,000 / 1,212	*	15 / 4
14.	Iowa	2,000		14
15.	Maryland	3,000		14
16.	Minnesota	3,151		12
17.	Delaware	2,173		11
18.	California	3,711		10
19.	Maine	600 / 900	*	10
20.	Florida	1,848		10
21.	North Carolina	984		10
22.	Oregon	648		6
23.	Ohio	3,407		5
24.	Missouri	976		5
25.	Georgia	251		3
26.	Illinois	459		1

* See state-by-state analysis

The Legislative Pay Puzzle

What is a fair wage for a state legislator? The question is not easily answered and involves numerous issues, from philosophical notions about the implicit sacrifice of public service to practical considerations involving time and costs.

By Lucinda Simon

If a person's pay is a measure of how society assesses a job, what then is the value of public service? What is a fair wage for a person who serves in a state legislature?

The answer to the question lies somewhere among the pieces of a political puzzle—a puzzle that is hardly neat, rarely seems complete and resists that sense of a seamless whole.

Part of the picture connects philosophical notions of the implicit sacrifice of public service, the ideal of the citizen legislator, and values of representativeness and independence from influence. Another part has to do with the individual—the practical considerations involving time and costs of legislative service and the motivations and ambitions of lawmakers.

From another perspective, legislative pay is a clearly political determination, having to do with methods, assessing strategy and timing, persuading members and counting votes. Finally, a part of the puzzle turns on perceptions, most fundamentally those held by the public and shaped by the media.



Consider the pieces to the puzzle of legislative pay.

Most states embrace the conception of the "citizen legislator" as the philosophical cornerstone of legislative service and pay. But the idea is full of contradictions.

The term suggests elected officials who do not devote full time to their legislative duties but rather maintain a day-to-day connection with diverse professional, economic and life experiences in their communities.

The term also implies that legislative service is, or at least should be, open to any citizen regardless of personal wealth. Finally, the citizen legislator represents an ideal of independence—citizens who can act free from the influence of moneyed special interests and unencumbered by personal political ambitions.

The only obstacle, however, is money—the money required to run for election, to take time away from other pursuits, to pay the expenses of living and working in a capital city, away from home, and to create the impression of unquestioned virtue.

In earlier times, the task of representing one's friends and neighbors in the legislature was considered a patriotic duty comparable to military service. In fact, until the Civil War, legislative seats were occupied mostly by the wealthy, and farmers, who were largely responsible for the tradition of scheduling legislative sessions between harvest and spring planting.

For those with seasonal economic callings, legislative service provided a civic counterpoint. When sessions were short and infrequent, legislative work was a small sacrifice of time that was offset by other advantages that accrued to one's law practice or business, to one's neighbors and friends, or one interest or another.

The push for legislative modernization in the late 1960s and early 1970s changed the accepted notions of legislative sessions and pay in many states. Limits on the length and frequency of sessions were removed, and the call for setting legislative pay at higher professional levels went hand in hand.

In 1969, biennial compensation in state legislatures averaged \$13,256; today the average biennial salary is close to \$30,000, an average that masks a range from \$200 a biennium in New Hampshire to \$86,000 per biennium in New York.

In many states, the responsibility for defining the philosophical boundaries of the compensation debate rests with a citizen panel charged with developing pay recommendations. But clear and reasoned distinctions are often difficult to draw between notions of part time and full time, professional and citizen, public and private, and service and sacrifice.

Lucinda Simon, formerly with NCSL, writes about and consults on legislative issues from her home in Norman, Okla.

"The commission has one essential function: to look at the compensation of public servants as objectively as possible and with a clear philosophical base," says Donald Nicoll, who for four years chaired and guided the deliberations of the Maine State Compensation Commission.

In the case of the Maine Legislature, that philosophical base meant affirming a part-time, citizen legislature and trying to identify a salary level that would "relieve reasonable people of unnecessary anxiety and would be neither an obstacle nor an inducement," Nicoll explains.

Using remarkably similar language, the Maryland General Assembly Compensation Commission outlined six salary principles which guided its 1985 salary recommendations. The commission emphasized support for a part-time legislature with a salary "high enough to enable [legislators] periodically to leave their professions, their businesses, or their homes to attend to legislative tasks, yet low enough so that members will not generally plan their personal finances solely around legislative compensation."

But translating these sentiments into dollars and cents is not always easy. Conflicting pressures abound.

Calling for compensation that was "adequate yet not excessive," the Maryland commission noted its obligation to the taxpayer and its need to balance "two divergent interests, that of a sound legislative process on the one hand, and a concern for rising government costs on the other."

In its 1986 report, the Connecticut Commission on Compensation of Elected State Officials endorsed the concept of the citizen legislator but then wrote "... service in the General Assembly has come to demand a far greater proportion of a legislator's time than it did 10 years ago... in most cases, time devoted to the General Assembly represents wages or salary lost from a legislator's private career—fewer hours worked, opportunities not pursued, and chances for career development foregone."

Earlier this year, the Alaska State Officers Compensation Commission rejected comparisons with the private sector because of the part-time nature of the job, the inherent sacrifice required by public service and the fact that legislators "are not required to show years of experience, degree of expertise, or prior accomplishments in a related field." One qualification counts most in legislative service and that is the voters' approval of a candidate or an incumbent, the Alaska commission suggested.

In spite of the similarity in reasoning, the recommendations of the salary commissions noted above are remarkably different, testimony to how imperfect a measure salary is. Over the next biennium, Maine rank-and-file lawmakers will receive \$15,000 in salary, Connecticut \$30,400, Maryland \$45,000 and Alaska \$78,000 (if the commission's recommendation is approved). Even taking into account differences in costs of living, the salary variations suggest how elusive the concept of citizen legislator is.

Senator Mark Ricks of Idaho tells of addressing a high school government class where he was asked about his salary as a legislator. He invited the class to take a guess, and one boy offered a figure of \$100,000 per year. Encouraged to lower their sights, other students guessed \$90,000 or \$75,000, but nothing even near the \$30 per day during the session and \$200 a month during the interim that Idaho lawmakers actually receive. When Ricks finally told the class his actual legislative salary, one student asked in amazement, "Why do you do it?"



For Alaska Representative Pat Pourchot, shown with his wife, Janie Leask, working in a part-time legislature is a full-time job. His wife's salary helps.

The question strikes a part of the pay puzzle that deals with the needs and motivations of individual legislators. Most legislators are initially attracted to legislative service by aspirations of public service, certain vague or clearly defined public policy goals and a job that is "damned exciting," as one legislative observer puts it.

Beyond that the motivations may vary, and political ambition, ego, power, family tradition or expectations, challenge and glamour may all play some part. Compensation for many state legislators may not be a motive but rather a reality that most must confront at some point. Will per-diem or travel allowances cover actual expenses? Will legislative salaries make up for some or all of lost time away from work? Will there be other benefits?

In the 1970s, pay was often a disincentive. Regularly before elections, newspapers would feature stories of legislators forsaking their lawmaking because the demands on their time had increased and they could no longer afford to stay. Such stories are much less common, say veteran legislative staff directors and legislators in many states.

Take the experience of Wisconsin. Gary Johnson, who resigned as Assembly majority leader in 1984 and now is a division administrator for the state Department of Public Instruction, describes his first years in the Legislature as an economic hardship with the annual salary at \$8,900. But in 1974 compensation jumped to \$15,681 a year and has moved steadily upward to its present level of \$29,992 a year, not including the \$45 per day for living expenses.

"More legislators leave now because of burnout or a better opportunity than because of legislative pay," Johnson believes, adding that current levels make it easier to recruit candidates. "When I first ran it was the idea of public service and the attraction of an exciting job. Now for some it is a pay raise."

At the same time, Johnson feels the job has expanded and, whether intended or not, the citizen legislator is a thing of the past in Wisconsin.

Pat Goodrich, another legislator-turned-administrator who witnessed the same Wisconsin compensation evolution, is less sanguine about the increased pay.

State Ratification of Old Law Could Limit Congressional Pay

A movement to revive a 198-year-old amendment to the U.S. Constitution that restrains congressional pay raises until after the next election is halfway home, and recent shenanigans by members of the U.S. House of Representatives may be the catalyst needed to push it all the way.

If the amendment—"No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened"—had been ratified in 1791 with the rest of the original Bill of Rights, members of Congress would have had to wait for the 15.6 percent raise that was added to their paychecks April 1.

As it stands, members can say they voted against the measure that gives them a \$12,100-a-year raise and yet pocket the increase. It's been called "careful machinations" and "fancy footwork," but in reality Congress rejected the raises drafted by a presidential advisory board one day too late to stop them from going into effect. The proposal also includes higher wages for federal judges, Cabinet officers and some 3,000 top federal employees.

While at least 80 members of Congress are making motions to give their raises to charity or back to the Treasury Department, and several have joined the National Taxpayers Union in a suit calling the day-late move unconstitutional, that old amendment of 1789 is receiving publicity again.

Montana approved the amendment in March, becoming the 19th state to ratify. In April, California state Senator Quentin Kopp picked up the measure aiming to make his state No. 20. Kopp maintains that voters have a right to "express their sentiments when it comes to raises" for both state lawmakers and members of Congress. He points out that 31 states already have similar amendments governing pay increases for state legislators.

Congressional pay raises have pushed states to action before. After only six states approved the pay increase amendment the first time around, it was revived in 1816 when Congress gave itself a raise—boosting pay to \$1,500 a year—but died after Congress rolled back the increase. In 1873, after another congressional pay raise, Ohio ratified the amendment; 105 years later Wyoming followed suit.

For the past five years, University of Texas student Gregory Watson has led a one-man crusade urging states to ratify the "lost amendment;" now the effort is also being pushed by Ralph Nader's Congress Watch organization.

After discovering the little-known proposal while doing research on the Bill of Rights for a college paper, Watson has helped add 11 states to the list of those that have adopted the long-ignored amendment; Maine, Colorado, South Dakota, New Hampshire, Arizona, Oklahoma, Tennessee, Indiana, Utah, New Mexico and most recently, Montana. Ratification is needed by 38 states to add the amendment to the Constitution.

—Sharon Randall

She feels that the more generous compensation package has attracted a different kind of legislator—often younger, directly out of college or a short stint as a legislative aide, and fewer business or professional people.

Goodrich's observation is borne out in the statistics compiled by the Wisconsin Legislative Reference Bureau. Since 1967, the average age of state senators has dropped from 54 to 44 while the average age of state representatives declined from 47 to 44. Two other changes are striking among the statistics: Women, too few to warrant a separate statistic until 1975, now number 27, or 22 percent of the membership. And those who consider the Legislature a full-time calling have swelled the occupational category innocuously listed as "other," a change paralleled by the decline in the number of farmers and attorneys.

Many of the newer legislators are willing and able, on their legislative wages, to devote full time to the job, a trend that Goodrich believes is unfortunate because lawmakers spend more time in Madison and less time in their communities. "It tends to homogenize the process if you are down in the Capitol only talking to each other," she says.

Wisconsin Speaker Thomas Loftus argues that the lifestyle, the campaign pressures, the flexibility required by elections and sessions, and the time away from home are a much greater impediment to legislative service than pay is an attraction. Describing the Legislature as a "divorce factory," Loftus believes that turnover has accelerated in spite of more generous pay.

"If you're single or your spouse has a professional job or you are retired, the pay is pretty good. If, however, you are married and this is your sole source of income, you aren't going to be here very long," Loftus asserts.

Senate President Pro Tem George Kinley sees the beginnings of a similar trend in his own state of Iowa. He feels that pay increases are a primary reason that one in six Iowa legislators could be classified as full time. When he began his legislative career 17 years ago, not one lawmaker was full time.

With an annual salary of \$14,600, plus expenses and other reimbursements totaling about \$4,400, the compensation for Iowa legislators has become quite attractive considering Iowa's five-month session, Kinley argues.

In addition, there is more pressure today from the full-



time legislators for compensation increases, he says.

Still, for half the states where actual legislative salaries are less than \$11,000 a year and per-diem expenses may add another \$5,000 more, compensation plays a different role in political motivations. Clearly, the salary issue tugs at the individual lawmaker in different ways depending on the state, the compensation package and the individual's personal situation.

State Legislators' Compensation and Living Expenses During Session (as of January 1987)

STATE	SALARY	LIVING EXPENSES DURING SESSION
Alabama	\$10/day	\$85 per diem**
Alaska	22,140/year	80 per diem (\$60 for Juneau legislators)*
Arizona	15,000/year	60 per diem (\$35 for Maricopa County legislators)**
Arkansas	7,500/year	20 per diem (actual attendance)*
California	37,105/year	75 per diem**
Colorado	17,500/year	70 per diem (\$35 for Denver area legislators) for 140 days
Connecticut	15,200/year	4,500/year—Senators** 3,500/year—Representatives**
Delaware	20,000/year	5,000/year**
Florida	18,900/year	50 per diem**
Georgia	10,000/year	39 per diem**
Hawaii	15,600/year	20 per diem (\$10 for Oahu legislators)**
Idaho	30/day during session 7/day outside of session	60 per diem (\$35 for Ada County legislators)**
Illinois	35,152/year***	69 per diem*
Indiana	11,600/year	75 per diem**
Iowa	14,600/year	40 per diem (\$25 for Polk County legislators)**
Kansas	\$4/day	65 per diem**
Kentucky	100/day	80 per diem**
Louisiana	16,800/year	75 per diem*
Maine	9,000 (1987) 6,000 (1988)	60 per diem*
Maryland	22,000 (1987) 23,000 (1988)	78 per diem*
Massachusetts	30,000/year	No per diem, but receive mileage for every session day
Michigan	38,163 (1987) 39,881 (1988)	7,700/year expenses*
Minnesota	23,244/year	36 per diem (\$23 for metropolitan legislators)**
Mississippi	10,000/year	69 per diem for actual daily attendance (none for Jackson legislators)**
Missouri	20,244.24/year	35 per diem**
Montana	\$2.12/day	30 per diem**

Note: Daily salaries are paid during regular session.

STATE	SALARY	LIVING EXPENSES DURING SESSION
Nebraska	\$4,800/year	\$55 per diem (\$25 for legislators residing within 25 miles of Lincoln)*
Nevada	130/day (no more than 60 days)	57 per diem*
New Hampshire	100/year	None
New Jersey	25,000/year	None
New Mexico	75/day	None
New York	43,000/year	75 per diem*
North Carolina	10,140/year	79 per diem**
North Dakota	90/day plus \$180 each month legislator is in office	35 per diem**
Ohio	33,243 (1987) 34,905 (1988)	None
Oklahoma	20,000/year	35 per diem**
Oregon	10,812/year	62 per diem**
Pennsylvania	35,000/year	83 per diem*
Rhode Island	5/day	None
South Carolina	10,000/year	73 per diem (actual attendance)**
South Dakota	3,200 (1987) 2,800 (1988)	75 per diem**
Tennessee	12,500/year	77 per diem**
Texas	7,200/year	30 per diem**
Utah	65/day	25 per diem**
Vermont	320/week (1987) 340/week (1988) (average 18 weeks)	72.50 per diem (\$30/day plus mileage for legislators who commute)**
Virginia	11,000 (1987) 18,000 (1988)	75 per diem*
Washington	14,500/year (new members) 13,750/year (holdovers) 15,000 (1988)	50 per diem*
West Virginia	6,500/year	70 per diem* 65 per diem for special sessions**
Wisconsin	29,992/year (new members) 27,202/year (holdovers)	45 per diem*
Wyoming	75/day	60 per diem*

*Vouchered

**Unvouchered

***Raise effective July 1, 1987

"We do lose members because of the salary," says Senator Ricks, who combines his duties as majority leader with being a farmer in Rexburg, Idaho. "There's a danger of making this a rich man's club where people can't afford to serve."

"Yet on the other hand," he concludes with a sentiment heard in many legislatures with lower pay, "we view this as a part-time legislature and people know that before they file for office."

Fitting politics into the picture adds another layer of complexity to the pay issue. A large part of the hair-trigger politics of pay increases has to do less with amount than with method, the pay-raise machinations of the U.S. Congress earlier this year being an example of the process at its worst.

But methods vary greatly among the states. The voting public has the decisive role in setting salaries for legislators in 10 states, nine because salaries are specified in the state constitution and Arizona because of a provision for a public referendum to approve salary recommendations of a state compensation commission. Of the 10, Arizona's \$15,000 annual salary is the highest. None of the other nine earn even half that amount and Alabama, New Hampshire, New Mexico, Rhode Island and Utah pay the lowest legislative salaries in the country.

In Hawaii, Maryland, Michigan, Oklahoma and West Virginia, legislative salaries are set by a compensation commission and the legislatures need not act. In Hawaii, Maryland and Michigan, lawmakers may reject or reduce the commission's recommendation.

Some states have tried and abandoned the commission process, echoing the sentiments of one veteran leader: "If we are going to take the heat, we might as well control the process."

In the rest of the states, the legislature plays some pivotal role in establishing legislative pay. Thus, while lawmakers are better able to ensure that their salaries keep pace with other costs, they are placed in the unenviable position of voting on and justifying their own salaries.

Legislatures have tried to cushion themselves against charges of self-interest. Twenty-two states prohibit an increase from going into effect during the session or legislative term in which it was adopted. Seventeen states use advisory compensation commissions, typically composed of leading citizens from various walks of life and designed to bring independent credibility and integrity to pay proposals.

Eight states now tie legislative salaries in some way to state employee payroll adjustments. For example, California, Florida, Kansas and North Carolina allow automatic salary

increases to parallel the average percentage increases of state employees. Minnesota's increases, recommended by a commission and then left to legislative approval, cannot exceed the lowest comparable increase for state employees. Oregon's lawmakers are compensated at the first pay range of state civil service and are accorded increases as the pay plan is adjusted.



Wisconsin is unique among the states because all legislative compensation is set by a legislative committee without the necessity of a vote of the full body. The secretary of employment relations initiates a review of changes in the compensation plan for elected officials and makes recommendations to the Joint Committee on Employment Relations. Upon the committee's approval, pay increases become effective in a legislator's next term.

By whatever method, Maine compensation chairman Nicoll feels that certain steps make for sound pay increases. Second, he argues that the amount should be "politically sound." The recommendation formulated under his leadership uses the average hourly factory wage in the state as an index. The recommendation proved to be both "saleable and unassailable" politically, Nicoll notes.

Another key to smooth political sailing is the role of leaders, Nicoll adds.

Representative Robert O'Donnell, majority whip in the Pennsylvania House, agrees that leaders are responsible for bringing along the members on tough salary proposals. "It's a difficult vote for an individual, but collectively we have to do it. . . . You have to shoe-horn it [a pay vote] into that perspective."

But Speaker Loftus of Wisconsin argues that legislators see the issue in terms of their own situation. He notes that the younger single legislators get most concerned about per-diem and expense payments and the older members are most attentive to health and pension benefits, while the middle-aged legislators with young families are the ones who press for salary increases. "If you don't need it, you can see it as a political issue," he says.

Representative Pat Pourchot of Alaska personifies the contradictions and ironies of legislative pay politics.

Pourchot was first elected in 1984, when he campaigned against the Alaska Legislature's 1983 vote increasing the annual legislative salary to \$46,800 and eliminating per-diem payments.

During his freshman term, he co-sponsored a rollback of legislative pay to \$22,140. Facing a critical press and a citizen petition drive to repeal the 1983 pay raise, the Legislature in 1986 approved Pourchot's proposal, reinstated a system

of per-diem payments and created an advisory compensation commission.

But now Representative Pourchot admits his personal views on legislative pay have softened. Though he views his legislative job as part time, he finds it difficult to combine with another job. Formerly a land-use consultant, he finds his legislative duties create too many potential conflicts of interest to continue his old career. He has no other outside income except his wife's salary and he has a family to support in Alaska's high-cost-of-living economy.

He faces a personal quandary over the Alaska compensation commission's preliminary salary recommendation that will amount to \$39,000 a year. In general, Pourchot feels the commission's proposal is a fair one, but the state is suffering economic woes and cutbacks, making a legislative pay increase difficult to justify.

The compensation commission has tried to bring reason and openness to the process of salary setting, but Pourchot now recognizes that the commission will not be able to defuse the issue entirely. "A large segment of Alaska's citizens will never agree to a pay increase, then it will be up to the Legislature to take a political stance, vote for it and defend it," he says.

For public consumption, the pay issue cannot be reduced to rational considerations of need, comparability and job worth.

Consider the case of Rhode Island, where some things never seem to change. In 1842, the state's original constitu-

Perquisites and Per Diems Complicate Salary Comparisons

The range in salary levels among the states has never been greater: At the low end, New Hampshire and Rhode Island legislators receive constitutionally fixed salaries of \$100 per year and \$5 per day for a 60-day legislative session, respectively. At the other end of the spectrum, New York solons receive \$43,000 in annual salary, with California, Illinois, Michigan, Pennsylvania, Ohio and Massachusetts following behind with salaries at \$30,000 a year or more.

But base salaries are only a part of the compensation picture. Difficult to compare are the various reimbursements, benefits, office allowances and perquisites such as credit cards or even state vehicles that supplement legislative salaries.

In addition, 41 states now recognize the extra job demands and duties of legislative leaders with additional compensation ranging from as little as \$2 per session day for Alabama's presiding officers to \$35,000 in additional annual pay for the House speaker and Senate president in Massachusetts. A few states, such as Connecticut, Delaware, Kansas, Massachusetts and New York have extended pay supplements to assistant leaders, committee chairs, ranking minority members or vice chairs.

All but six states provide legislators with per diem or reimbursement of actual expenses for travel and living costs while on legislative business. All but six legislatures have pension programs, and four out of five legislatures have health and life insurance benefits, but again because of varying contribution provisions, the net effects are hard to compare.



It's especially difficult to determine a fair salary for part-time lawmakers like state Senator Mark Ricks of Idaho. He combines his many duties as majority leader with the equally demanding duties of being a farmer in Rexburg.

tion fixed lawmakers' salaries at \$1 per day of attendance up to a maximum of 60 session days, and a mileage allowance of 8 cents per mile was established. In 1900, the state constitution was revised to allow a salary of \$5 per day but no increase in the mileage allowance. In 1987, those rates remain unchanged.

Ten times since 1950, Rhode Island voters have rejected proposals for a pay increase, the most recent attempt coming last November on a constitutional amendment that would have tied lawmakers' salaries to the average wage earned by state factory workers. The amendment would have meant \$76.55 per day up to a maximum of \$4,620 a year.

The proposal was defeated by a vote of two to one, even though a 1981 vote on creation of a compensation commission lost by only four percentage points. Moreover, early polling by various sources seemed to indicate support for a pay raise.

Darrell West, professor of political science at Brown University, attributes the defeat in part to ambiguous ballot wording and the public's perception that political leaders were "trying to put one over on us."

"The general public's view is that legislators get other advantages," West notes.

Going from \$300 in a year to \$4,620 would hardly seem like grand larceny, but it illustrates the problems of public perception in matters of legislative pay. Part of the problem is that citizens confuse state legislators with congressmen

and assume that the pay levels are much higher than they are, Idaho Senator Ricks says.

In Pennsylvania, Representative O'Donnell describes another example of confused public perception. Local government is traditionally viewed as voluntary public service, and state legislators are seen more like borough mayors than as part of a branch of state government that is co-equal to the governor, O'Donnell notes.

O'Donnell also argues that actual pay levels are not the problem, but rather, like taxes, any proposed increase elicits an automatic negative reaction.

If a poll were taken on whether \$30,000 is a fair legislative salary in Pennsylvania, O'Donnell predicts the public would be supportive. But if asked, should legislators get an increase from \$25,000 to \$30,000, he feels the answer would be a resounding "No."

"It is the perception of grasping. The question is: What is the local tolerance for self-dealing?" O'Donnell says. Moreover, he argues that any pay raise inevitably becomes a "red-hot media issue."

Senator Ricks agrees. "The press is very negative toward the function of the legislature and its accomplishments." Even though Idaho legislators have not received a pay increase during his five terms in office, Ricks notes that when a pay raise is proposed, the general media response is, "Don't give those guys anything."

**STATE LEGISLATORS' COMPENSATION
& LIVING EXPENSES DURING SESSION
as of January 31, 1989**

National Conference of State Legislatures

<u>ST</u>	<u>Salary</u>	<u>Living Expenses During Session</u>
AL	\$10/day (for 30 session days during regular session)	\$40 per diem (unvouchered) \$40 one additional day per week for committee meeting attendance
AK	22,140/year	\$80 per diem (\$60 for Juneau legislators) (unvouchered)
AZ	15,000/year	\$60 per diem for first 120 regular session days (\$35 for Maricopa County legislators) (vouchered) After 120 session days, \$20 per diem (\$10 for Maricopa County members)
AR	7,500/year	\$74 per diem, 7 days/week in session (unvouchered)
CA	40,816/year	\$88 per diem (unvouchered)
CO	17,500/year	\$70 per diem (\$35 for Denver area legislators) for 120 days (vouchered) After 120 days, \$40 per diem (\$20 for Denver area legislators)
CT	15,960/year 16,760/year (as of Jan. 1, 1990)	Senators--\$4,500/year Representatives--\$3,500/year (unvouchered)
DE	22,173/year	\$5,500/year (unvouchered)
FL	20,748/year	\$50 per diem (unvouchered)
GA	10,251/year	\$59 per diem (unvouchered) - \$4,800/year vouchered expense allowance (incl. office expenses)

HI	27,000/year	\$55 per diem (vouchered) + \$5,000/year expense allowance
ID	\$30/day during session \$15/day outside of session (session equals about 70 calendar days)	\$60 per diem (\$35 for Ada County legislators) (unvouchered) + \$200/year unvouchered expense allowance
IL	35,661/year	\$74 per diem (vouchered)
IN	11,600/year	\$83 per diem (unvouchered)
IA	16,600/year	\$40 per diem (\$25 for Polk County legislators) (unvouchered)
KS	\$57/day (for abt. 90-95 calendar days in session)	\$69 per diem (unvouchered)
KY	\$100/day (for abt. 101 calendar days per biennium)	\$75 per diem (unvouchered)
LA	16,800/year	\$75 per diem (vouchered)
ME	9,900 (1989) 6,600 (1990)	\$60 per diem (vouchered)
MD	24,000 (1989) 25,000 (1990)	\$34 per diem (vouchered)
MA	30,000/year	\$1-50 per diem, depending on distance from capitol (unvouchered)
MI	42,670 (1989) 45,450 (1990)	\$8,100/year expenses (unvouchered) (\$8,500 in 1990)
MN	25,138/year 26,395 (as of Jan. 1, 1990)	\$43 per diem (unvouchered) + \$400/month housing for senators, \$200-450/month representatives (vouchered)

MS	10,000/year	\$76 per diem for actual daily attendance (none for Jackson legislators) (unvouchered)
MO	21,211.56/year	\$35 per diem for actual daily attendance (unvouchered)
MT	\$52.13/day (for 90 session days per biennium)	\$50 per diem (unvouchered)
NE	12,000/year	\$66 per diem (\$55 for legislators residing within 50 miles of Lincoln) (vouchered)
NV	\$130/day (for no more than 60 calendar days per biennium)	\$60 per diem (unvouchered) + actual expenses for relocating to capital once per session
NH	\$100/year	NONE
NJ	25,000/year 35,000 (1990)	NONE
NM	\$75/day (for about 90 calendar days per biennium)	NONE
NY	57,500/year	\$75 per diem (vouchered)
NC	11,124/year	\$81 per diem (unvouchered) + \$465/month unvouchered expense allowance
ND	\$90/day (for 110-115 calendar days per biennium) + \$180 each month legislator is in office	\$35 per diem up to \$600/month (vouchered)
OH	36,649.95 (to increase 5%/year through 1992)	NONE
OK	32,000/year	\$35 per diem (vouchered)

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
11. Memo	From William Roper to John Sununu Re: Meeting w/AMA on Friday, June 23 (1 pp.)	6/22/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
 (Document Follows)
 By DSK (NLGB) on 5/12/2005

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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

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

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

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

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

THE WHITE HOUSE

WASHINGTON

June 22, 1989

THE CHIEF of STAFF
has seen

JUN 24 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: WILLIAM L. ROPER *Bill Roper*
SUBJECT: Meeting with AMA on Friday, June 23

Tomorrow you, Richard Darman and I will meet with Dr. Jim Sammons and other leaders of the American Medical Association. They want to tell you how upset they are with the Administration's support for expenditure targets (ETs) featured in the reconciliation Medical Physician Payment Reform package. My memorandum to you of June 20 (copy attached) explains the issues fully.

The following are updates:

- o The AMA is vehemently opposed to ETs. They ran an advertisement in yesterday's Post (attached) that alleges that ETs will cause rationing of health care services. This is just not true -- and they know it. What would happen if expenditure targets are exceeded, is that doctors' fees for the next year would be held down.
- o Not all doctors are opposed to the concept of ETs. The American College of Surgeons has endorsed the idea as shown in the attached article from their publication.
- o Other payers for health care services such as Blue Cross, insurance companies, employers and others support ETs despite their traditional fear that the government being tight with money shifts costs to them. This time they want us to get serious with doctors so that they can follow our lead.
- o The American Association of Retired Persons (AARP) is not opposed to ETs. They are working on a letter to make that clear.

Conclusion

If I can answer any questions, please let me know. I believe that we can win this fight. However, if we cannot win on ETs, we should adamantly oppose the other element in the reform package, the new fee schedule. The package must go up together or down.

Attachments

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
12. Memo	From William Roper to John Sununu Re: Medicare Physician Payment Reform (2 pp.)	6/20/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DJC (NLGB) on 5/12/2005

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

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THE WHITE HOUSE

WASHINGTON

June 20, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: WILLIAM L. ROPER *BR*

SUBJECT: Medicare Physician Payment Reform

The American Medical Association is mounting a major lobbying campaign, seeking to change the Administration's support for an item in this year's Medicare reconciliation bill. They are adamantly opposed to so-called "expenditure targets" for aggregate doctor payments under Medicare.

For the first time since Medicare was created in 1965, the Congress is moving to overhaul the way the program pays doctors. Last week the House Ways and Means subcommittee on Health approved a three part package that substantially revises Medicare physician payments. Also last week, Secretary Sullivan announced Administration support for this three part approach at a hearing before the Senate Finance Committee.

Background

Currently, Medicare pays doctors the lowest of what they charge, the prevailing rate in their geographic region, or an amount indexed to what they have charged in the past for this same service. That system is regarded as inherently inflationary and is considered a major reason Medicare costs for physician services have been increasing more than fifteen percent per year.

Led by the American Medical Association, organized medicine has for the last several years been pushing for a major change in Medicare physician payment. Medicare would use a fee schedule based on a "resource-based relative value scale" which takes into account the time, training and skill required to perform a particular service plus overhead costs. This fee schedule, which also would be adjusted by a geographic region to allow for differences in practice costs would replace the current payment system. This new fee schedule would smooth out some of the inequities that have built up between payments for surgical and other procedures and those for primary care such as internal medicine and family practice.

This new fee schedule, the first element in the three part Ways and Means package, would divide the pie among doctors differently, but it would not reduce the amount Medicare would spend on doctors' services in the aggregate.

That is the reason for the second part of this three part plan, "expenditure targets." Beginning in fiscal 1990, Congress would set a target for total Medicare spending on physicians each year. If costs exceed the target, the inflation update in doctors' fees the following year would be reduced accordingly.

The third part of the package would protect beneficiaries by limiting doctors ability to charge patients more than the Medicare payment amount as Medicare restrains its payments. Doctors would be able to charge no more than 125% of the new approved fees in the first year.

AMA Opposition to Expenditure Targets

The proposal for expenditure targets is by far the most controversial element in this package. It is being opposed adamantly by the American Medical Association and others. They are asserting that this restraint in the rate of increase in prices would lead to health care rationing and a loss in quality of services.

Because expenditure targets would operate at a level far removed from individual patient care decisions, there is little reason that an expenditure would lead to rationing or other inappropriate denial of needed care. Individual physicians would still have strong fee-for-service incentives to provide additional services. Expenditure targets are intended instead to create a collective incentive that would encourage the medical community to work cooperatively with the Medicare program to identify and correct problems related to unnecessary care.

Moreover, a national expenditure target represents only an incremental change from current policy. Over the past several years, Congress has repeatedly reduced the annual physician payment inflation update to meet budget goals. Thus an expenditure target merely formalizes current de facto policy.

The Package Must Go Together

It may well be that the AMA's adamant opposition to expenditure targets will prevent the Congress from adopting such a proposal. If this is the case, the new fee schedule also should not be adopted. It is imprudent to change dramatically the relative prices for physician services without a modest insurance policy to make certain that aggregate expenditures do not balloon in an uncontrolled fashion.

Therefore, the Administration has insisted that the physician payment reform package, including a new fee schedule and expenditure targets, be taken together or not at all.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
13. Report	Medicare Catastrophic Coverage Act (MCCA) (5 pp.) <i>(Back of page 4 counts as page 5.)</i>	6/21/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
 (Document Follows)
 By DOJ (NLGB) on 5/12/2005

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
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The Medicare Catastrophic Coverage Act (MCCA) will phase in financial protection for acute illness:

- o 1/1/89 Medicare beneficiaries will pay no more than one annual hospital deductible of \$560;
- o 1/1/90 beneficiary costs for physician and other outpatient services will not exceed \$1,370;
- o 1/1/90 immunosuppressive and home-intravenous drugs will be covered;
- o 1/1/91 Medicare will pay 50% of all outpatient prescription drugs expenses after a beneficiary pays \$600. The HHS Inspector General questions HCFA's ability to implement this on schedule.

On 1/1/89 MCCA protection is financed by a \$4 increase to the \$27.90/month premium paid by all Medicare beneficiaries. There is a revolt among 45 percent of beneficiaries (those with an income tax liability greater than \$150) who will also pay a surtax of 15%. The rate jumps to 25% in 1990, and 28% by 1993. The maximum surtax is \$800 in 1989, increasing to \$1,050 by 1993.

MCCA Pricing
(\$'s millions)

	<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>	<u>FY 1993</u>
Reagan Budget Estimates <u>1/</u>					
Costs	1,207	4,000	7,843	11,289	11,199
Revenues	<u>-1,714</u>	<u>-8,366</u>	<u>-9,826</u>	<u>-10,449</u>	<u>-11,380</u>
Deficit Impact	-507	-4,366	-1,983	840	-181
CBO February Estimates					
Costs	1,304	4,099	6,560	8,325	10,040
Revenues	<u>-1,573</u>	<u>-7,288</u>	<u>-8,796</u>	<u>-10,256</u>	<u>-11,495</u>
Deficit Impact	-269	-3,189	-2,236	-1,931	-1,454

1/ Reagan Budget pricing assumes Medicare pays no new drug benefits in 1993 (only prior year obligations) -- an unconstrained benefit would add about \$2 billion to 1993 costs.

Surtax Revolt

The income surtax has created a political firestorm: beneficiaries fear the huge tax increase.

- o Chairman Bentsen inflamed the surtax relief debate by proposing elimination of "excess" revenues. Senate narrowly defeated (51-49) a one year MCCA delay.
- o Chairman Rostenkowski refuses to change MCCA. House Republicans pushing to change with Rep. Archer moving to discharge his bill.
- o April 21st Presidential letter opposed any change now.

MCCA changes can be hung on any legislation. Reconciliation and the debt limit are likely vehicles. In October, Form 1040 printing starts. Surtaxes due April 15, 1990 both critical dates.

Options

1. Status Quo: a "no change now" alliance with Rostenkowski might withstand the surtax firestorm. Soon the Chairman will be challenged by Archer's discharge petition.

2. Support a McCain\Archer Delay: these bills keep 1989 hospital benefits and the flat premium while delaying all other benefits and the surtax.

Pros In 1990 soothes elderly taxpayers without "reducing" benefits; and buys time to restructure.

Cons Increases the 1990 deficit by \$4 billion; may be perceived as "killing" the program; and may open MCCA to non-elderly financing sources.

3. Support a Bentsen Fix: Chairman Bentsen is seeking a reduction in the surtax while keeping all MCCA benefits in place.

Pros Gives surtax relief; preserves benefits legislated; and requires the least action.

Cons Insufficient surtax relief; revenue loss threatens MCCA solvency -- particularly the drug benefit; modestly increases budget deficit; will require a later fix; a "surgical" surtax change may not be containable.

4. Initiate an Alternative Fix

Surtax Elimination Option: Objectives: Eliminate the surtax, retain all catastrophic benefits, and minimize deficit increases.

Approach: Convert the surtax to a flat premium; expand Medicaid coverage of out of pocket costs and premiums for the 'near poor' (e.g. move from 100% to 125% of poverty); lower costs by (1) deferring the full drug benefit until 1995; increasing the MCCA threshold for non-poor from \$1370 to \$2000 and raising the Part B deductible.

Stagger Option: Keep all benefits but stagger effective dates to reduce costs and give modest surtax relief.

Drug Postponement Option: Seek a one year delay in the full drug program to allow for timely implementation.

June 21, 1989

Preliminary Pricing MCCA Options
(\$'s billions)

	<u>FY 1989</u>	<u>FY 1990</u>
Status Quo		
Baseline Deficit Impact	0	0
McCain\Archer Delay		
Baseline Deficit Impact	+.5	+4.7
Bentsen Option		
Baseline Deficit Impact	+.2	+1.3
Alternative Options		
1. Deficit Minimization		
Baseline Deficit Impact	na	na
2. Stagger Implementation		
Baseline Deficit Impact	na	na
3. Drug Postponement - Keep Surtax		
Baseline Deficit Impact	0	+.8

ALL BUT 3/4 / SWEETENED VIEW.

HUMPHREY, ACU/WEYRICH/...

GRASSLEY

COATS

THURMOND

had his own

nominee.

"WE WILL WORK WITH YOU ..."

ASK TO NOMINATE

SEEK THURMOND SUPPORT

3. PIECES OF PROB...

1) HEAD OF ABA COMMITTEE

2)



American College of Surgeons

FOUNDED BY SURGEONS OF THE UNITED STATES AND CANADA, 1913

55 EAST ERIE STREET CHICAGO, ILLINOIS 60611 AREA CODE 312 • 664-4050

PAUL A. EBERT, M.D., F.A.C.S.
DIRECTOR

June 2, 1989

William L. Roper, M.D.
Deputy Assistant to the President
for Domestic Policy
Director of the Office of Policy Development
White House
Washington, D.C. 20500

Dear Dr. Roper:

I am enclosing for your information a copy of my "As I see it ..." column, which will appear in the July, 1989, American College of Surgeons Bulletin.

As you may know, in February, 1989, the American College of Surgeons announced a comprehensive new plan for addressing the pricing and volume of surgical services under the Medicare program and for providing important new beneficiary financial protections. One of the key elements of the College's proposal includes a plan to make Medicare's expenditures for surgical services more predictable for beneficiaries and the government, based on the development of criteria for addressing the volume of services and phased implementation of a target expenditure program. The enclosed column may help to define more clearly what is meant by expenditure targets and to clarify the College's position with regard to expenditure targets.

I hope this information will be helpful to you. In the event that you wish to discuss further the College's proposal, please contact Cheryl Beversdorf, Manager of our Washington Office, at 337-2701.

Sincerely,

Paul A. Ebert, MD, FACS
Director

Enclosure

As I see it...

The physician payment reform proposals the American College of Surgeons presented before the Physician Payment Review Commission in February of this year* have received considerable attention. I will not attempt to elaborate on all parts of the proposal in this column, but I would like to make a few comments with regard to the issue of target expenditures. This clearly is the part of the proposal that causes many surgeons and legislators the most uncertainty.

In our view, a target expenditure is a financial target created from past experience taking into account the increase in the aging population, the anticipated changes in frequency of surgical procedures, and changes in the cost of the practice of surgery as projected by the rate of inflation. If the total spending for that year would turn out to be less than the target amounts, budgeteers and providers would obviously be pleased. If the amount spent on surgical services were to be above the target and there were no logical explanation for the overage (for example, new technology, increased frequency of a single operation, unusual rise in the cost of medical malpractice insurance, and so on), fees that would otherwise be paid for operations would be reduced in the following year.

As everyone recognizes, once a relative value scale (RVS) is in place, the relative values must be multiplied by a conversion factor to arrive at dollar amounts. The College's premise has been that surgical services will not generally increase at an unrea-



“The difficulty with the words *expenditure targets* is that they are sometimes confused with the words *expenditure caps.*”

sonable rate in future years after taking into account such factors as population changes and changing technology. In concert with the development of the concept of expenditure targets, the College has expressed a strong interest in creating guidelines for surgical procedures that could be used at all levels in evaluating the quality of care and that should help to determine the volume of surgical services performed.

The difficulty with the words “expenditure targets” is that they are sometimes confused with the words “expenditure caps.” Financial caps usually have meant that when a specified amount of money has been spent, no additional funds are available, and, thus, services are reduced and so-called ration-

*See “Proposals to modify Medicare’s physician payment system” in the March 1989 issue of the *Bulletin* (pages 6-13.)

ing can occur. The College has never had an interest in imposing expenditure caps or making any effort to ration services, but it has felt that some degree of reasonableness needs to be introduced into our current reimbursement system.

Currently, expenditure targets are already established each year by Medicare as part of the federal budget. This budget is submitted each year showing what Medicare will spend unless steps are taken to reduce payments for covered services. Laws are then passed to reduce payment for physicians' services by a certain amount and that amount becomes the new target for the fiscal year. The difficulty with the current system is that it is totally unpredictable with regard to how much and in what areas budget reductions are to be achieved. One year it may be achieved by reducing the Medicare economic index (MEI) for all services, which in essence is similar to the reduction that would result with the use of a conversion factor once an RVS is in place. Sometimes there have been across-the-board fee freezes. In other years, the approach might be to look at certain "overpriced" procedures—and surgery usually bears the brunt of the reduction. Thus, one has no way of predicting what direction Congress or the Administration will take on a year-to-year basis, nor does one have any real idea about what the recommended budget reduction will be.

Therefore, as we view the problem of physician reimbursement, using an explicit process to estab-

lish an expenditure target—which really is asking the government to perform "prospective budgeting"—should offer considerable predictability, would take into account the factors that increase the rate and cost of services provided per year (for example, escalating costs of practice and the increasing number of aged individuals covered by the Medicare program), and would not require the use of last-minute, uncertain methods through which the "budget" can be accommodated. In our view, one key advantage of the proposal submitted by the College is to ensure that surgeons and Medicare beneficiaries would participate "up front" in Medicare year-to-year planning and help achieve some stability in physician reimbursement policies rather than being faced with a new method for "tinkering" with the system each year.

Paul A. Ebert

THE WHITE HOUSE
WASHINGTON

August 3, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *FBP*
SUBJECT: Biden Speech

As you requested, an annotated version of Senator Biden's remarks at the National Press Club on Monday are attached. Also attached are some comparisons of similarities between Biden and Bennett proposals and Biden proposals and the President's crime package as well as some budget data.

This is what we were able to pull together during the past two hours. If you would like or need more, please let me know.

Attachment

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
14. Speech	Senator Joseph R. Biden, Jr. at National Press Club Re: Administration drug policy w/annotations (14 pp.)	7/31/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DL (NLGB) on 5/12/2008

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(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

U.S. Senator Joseph R. Biden, Jr.

National Press Club
Washington, D.C.
Monday, July 31, 1989

QUOTES FROM:
- Bush speeches
May 15, June 15 &
INAUGURAL ADDRESS

"War on drugs," "End the scourge," "Take back our streets," "Just say no" -- you've heard them all before, the slogans, the war of words against drugs. What have these words wrought? Cynicism, opportunism, and despair. Cynicism among many, but particularly the press; opportunism on the part of countless politicians, including the President; and despair in our schools, our churches and our homes.

Let me start with the cynicism. It is the prevailing attitude among observers of the drug debate, for how else can it be explained that President Bush is taken vigorously to task for pledging a mission to Mars, or for proposing to rebuild the economies of eastern Europe, without providing the funding to back up his promises -- and yet he is able to stand up at his inauguration and say "this scourge will end," and then have no one "call" him when he refuses to use the tools already available to him to fight the "war on drugs." And how else can it be explained that the President is able to go to the Law Enforcement Training Institute at Glynco, Georgia, and call for a new package of anti-crime legislation -- when, just a few months earlier, he had proposed cutting the funding for the very institute at which he spoke? How else can such hypocrisy go unnoticed, especially when it is not an isolated incident, but part of a continuing pattern?

The reduction reflects a one-time construction cost from previous year that was not necessary in new fiscal year. (2 new dormitory)

① MISREPRESENTS

THE LAW: Sentencing Guidelines do not include the mandatory minimum sentences proposed by President

② Shortened

sentences frequently are the result of federal prison overcrowding AND a lack of mandatory minimum sentences (Biden opposes MANDATORY MINIMUM TERMS.)

③ DEATH PENALTY in CRIME BILL GOES BEYOND THAT IN DRUG BILL TO COVER HOMICIDE, TREASON, MURDER FOR HIRE, ATTEMPTS ON PRESIDENT, CERTAIN ACTS OF TERRORISM ETC.

Such has been the track record of the Bush administration from the beginning when it comes to waging its "war on crime and drugs." For example, President Bush came to my state and called for longer sentences for drug dealers. But, Mr. President, Congress passed a law in 1984 that took away judges' discretion to shorten prison terms for drug dealers. Mr. President, we don't need a new law -- we have it already.

③ Mr. President, you've spoken at length about the need for a death penalty for drug dealers, minimum prison terms for weapons offenders, preventive detention for persons arrested with drugs. But Mr. President, we already passed such laws -- in 1984, 1986, and again in 1988. You don't need new laws to do these things; you already have them already.

④ The President has referenced/acknowledged the 1984, 86 and 88 drug and crime bills in his recent speeches and Vident Crime proposal,

which was intended to:

- ① STRENGTHEN & CLOSE LOOPHOLES IN THOSE existing laws, and
- ② REFORM THE FEDERAL CRIMINAL JUSTICE SYSTEM
- ③ SET EXAMPLE FOR STATES

N.B. FOR SEVEN YEARS 81-88 CONGRESS DID NOT FULLY FUND ADH. BUDGET REQUESTS FOR DRUG & LAW ENFORCEMENT FOR DOJ

Mr. President, we've passed 208 new, tough anti-crime laws in the past five years. If you want more, I am sure the Congress will oblige. But before we do, it's time to take a look at what you could have to fight your "war on drugs," but haven't bothered to ask for. In 1988, Congress passed a sweeping anti-drug bill. But in 1989, Mr. President, you showed no interest in using that law to fight crime and drugs in this country. You failed to put in your budget the money needed to make these tough laws work.

Let me be specific. Here's what we included in that drug bill that the President never put in his budget: more than 700 new DEA agents, who could have busted almost 2,500 drug king-pins in a year's time; 1,700 new Coast Guard officers, our first line of defense against imported drug supplies; almost 600 other federal law-enforcement officers, including 200 FBI agents, 60 marshals, 100 new ATF agents, and more; enough money to start 1,000 new state and local police task forces, which could have shut down open-air drug markets all over the country; treatment beds for almost a quarter million addicts who now are waiting for treatment, people who want to kick the habit, but are told they have to wait months for openings in programs to help them, months during which they rob and mug to pay for the craving they can not or will not curtail. We could have helped 230,000 such people this year, but President bush would not pay for it.

The list of items President Bush "just said no" to goes on and on: 125 drug education projects, 60 anti-gang task forces, 2,000 new prison beds, and much more. With all these items, the President not only refused to pay for them, but actually threatened a veto if Congress tried to force them on him.

Mr. President, you say you want a "war on drugs," but if that's what you want, we need another D-Day. Instead, you're giving us another Vietnam: a limited war, fought on the cheap, financed on the sly, with no clear objectives, and ultimately destined for stalemate and human tragedy. That's not fair to the victims of crime, or to the victims of drugs, or those we ask to protect all of us from becoming victims -- because what we have now is a half-million police officers trying to stop 36 million crimes; each prosecutor handling 60 cases at one time; court calendars backed up, with a year's delay in sending some criminals to jail; and treatment centers telling some addicts that they must wait up to two years for help. And what has President Bush offered in response to this crisis? Only cardboard cops, cut-out courts, paper prosecutors, pretend prisons, and tenuous treatment. & AGAIN, CONGRESS DID THIS - NOT THE PRESIDENT

The results of the President's failure to match his opportunistic rhetoric with anything more than hollow promises, has been despair -- the anguish and despair of families whose children have been caught in the cross-fire of the drug gangs, the despair of the school teacher unable to penetrate young minds

President has asked for funds;
previous record/OMB figures show this is not the case/also final review of current requests is now underway
IN '88 CONGRESS
Authorized but DID NOT APPROPRIATE (see attached)
TO DO SO WOULD HAVE VIOLATED BUDGET SUMMIT

BENNETT STRATEGY IS NOT OUT YET DUE SEPT. 5
THESE VERY POINTS WERE MADE BY PRESIDENT, JUDICIARY HAS NOT SCHEDULED OR HELD HEARINGS ON THE CRIME BILL YET

sealed off by drugs rather than blossoming with ideas, the despair of the hospital worker caring for drug-addicted newborns, the despair of the police officer whose partner who lost his life to a crack trafficker back on the street only hours after they had locked him up.

This despair is real, but it doesn't have to be. Yes, we know that almost half the high-school students in America still aren't aware that cocaine is harmful, but we also know that among those who do believe it is harmful -- and that number has risen from only a third to more than half just since 1986 -- only seven percent ever try it. When the word gets out, the kids wise up. Yes, we know that 70 percent of the crimes committed in America are drug-related, and that the average heroin addict, for example, commits almost 200 crimes a year to support his habit; but we also know that crimes committed by drug users fall by 84 percent after they receive the treatment they need. Yes, we know that the murder of innocent bystanders caught in the cross-fire near drug markets has gone up 255 percent in the past two years alone -- but we also know that when intensive law-enforcement efforts succeed in closing down a drug market, violent crime in the surrounding area drops by as much as 67 percent. So there is despair in America -- and why not, there's plenty of cause for it -- but there's cause for hope, too.

It is because there is hope -- reason to believe that we can reduce the drug epidemic in America -- that we created the drug-czar post in 1988. We created the drug czar to learn what's being tried in the country that works, and what doesn't; to find out what we know about the drug problem, and what we have yet to learn; and to attempt to put an end to the bureaucratic turf battles among federal agencies that have plagued our anti-drug efforts. We also counted on the drug czar to move the drug issue beyond the realm of political profit-taking and into the sphere of genuine progress -- but in the light of what has happened in recent weeks, it appears that the Bush Administration may be more interested in partisan politics than in effective policy.

Frankly, I am concerned. According to some press accounts, it appears that our new drug czar, Dr. William Bennett, has spent more time consulting with Lee Atwater on his September drug strategy than he has spent consulting such experienced Congressional drug-policy experts as Pat Moynihan, Ted Kennedy or Jack Brooks. He's taken the time while traveling the country to take pot shots at Congress and to make fun of Congressman Rangel, while we wait and wonder what his plan will contain. I know that, to quote my friend Pat Moynihan, "It could be said that nothing is lost here save dignity," but I am concerned, so there are two things I want to do now: first, make it clear what is required of Dr. Bennett, by law; and second, make it clear what the Congress expects of any plan that is submitted -- to lay down a few markers.

PRESIDENT
URGES STATE &
LOCAL BAIL
REFORM, CLOSING
LOOPHOLES &
TIGHTENING UP FED.
PRE-TRIAL DETENTION
AS WELL AS OTHER
RELATED CRIMINAL
JUSTICE SYSTEM
REFORMS at the
FEDERAL, STATE AND
LOCAL LEVEL -- HE
JUST DOESN'T WANT
FEDERAL GOVERNMENT
TO PAY FOR STATE
& LOCAL RESPONSIBILITIES
STATES MUST
FOLLOW FEDERAL
EXAMPLE & DEVOTE
INCREASED RESOURCES
INCONSISTENT →
BLAMES PRESIDENT
BENNETT IS
CONDUCTING
EXTENSIVE
CONSULTATIONS
WITH ALL INCLUDING
OFFICES OF
DE CONCINI
FLORIO
DON EDWARDS
NIKULSKI
DOWNEY
STARK
HEFLIN
DOWNEY

SUCH AS
HABERS
CORPUS
EXCLUSION
TRY RULE
REFORM

See previous goal statement

Let me start with what the drug-czar law requires Dr. Bennett to do. First, he must offer "comprehensive, research-based, long-range goals for reducing drug abuse in the United States." These goals must be visionary and ambitious -- but they must also be rooted in reality. Second, he must "include short-term, measurable objectives which the Director determines may be realistically achieved in the two-year period" following the submission of his plan. That is, he must set out some immediate targets -- some guideposts we can use to judge in the short-term if we are headed in the right direction. Third, he must "describe the balance between resources devoted to supply-reduction and demand-reduction." And let me just note, as evidence of how committed Congress is to the notion that our drug strategy should be evenly divided between demand-reduction and supply-reduction, we created two deputies for the drug czar: a deputy for supply control and one for demand control. Fourth, the drug director must "review state and local drug-control activities, to insure that the United States pursues well-coordinated and effective drug control at all levels of government." And fifth, he must offer "a complete assessment of how (his) budget proposal is intended to implement the strategy, and whether the funding levels contained in such proposal are sufficient to implement such strategy" -- in other words, if he plans to spend enough and if he plans to spend it right. This, nothing more and nothing less, is what we will be expecting from the drug director in September.

If Biden were not trying to get the political jump on the Administration he would not have given this speech.

Now let us consider what Dr. Bennett should aim at in his plan -- and rather than lay out an entire strategy that I have, in fact, prepared; rather than offer a Democratic strategy to get the political jump on the Administration; rather than respond to the political challenge that has already been laid down by the Administration -- in the hope that Congress and the Administration can work together to assure the success of the new drug director, I offer nine points of what I hope will be our mutual understanding of how Dr. Bennett's plan should fulfill the purposes of the law. These points should not be taken as an attempt to hold the Director to the requirements of my own anti-drug program, but as statements of principle, all derived from a national consensus, that I believe his plan must in some way reflect. If we can maintain that kind of principled agreement, if we can avoid proposals that seek only partisan advantage, and if Dr. Bennett's plan offers a realistic prospect of putting those principles into practice, I believe he can count on the support of the Congress, and that we can, at long last, offer the American people hope that illegal drugs can, indeed, be brought under control.

I will offer some specific ideas as examples to illustrate how each of these broad goals might be effectively approached, but it is achieving the general thrust of those principles that most concerns me today. These ideas, as well as 50 more such ideas I have passed out to you today, are only possibilities, are only some of the options that show that the principles I am setting out are attainable, pragmatic, and realistic. Dr. Bennett should consider these ideas, and many more like them, because it is critical that he not shy away from setting specific, concrete and significant goals in his proposal.

So let me begin my challenge to Dr. Bennett with this fundamental premise: first, we must pay for what we promise. I have already spoken in some detail on this point, and I won't belabor it, other than to say that it's time to pay off on our promises to fight drugs, and to keep paying until the job is done. That means, immediately, finding the full \$1.8 billion we need to pay for last year's drug bill. And that means, so there is no doubt about what I am saying, even raising taxes, if need be, to pay for these anti-drug programs. Now, I understand that what I just said runs directly opposite to the politics of "read my lips" which have taken hold in Washington, but I believe that the people are ahead of the politicians on this score. That's why I went to the Senate floor a few months ago and proposed an amendment to raise excise taxes a penny a beer, five cents on a bottle of wine, and two cents per pack of cigarettes -- to raise the money needed to pay for the 1988 drug bill. Mr. President, we also read your lips when you said, "this scourge will end." Now it is time for you and the Congress to read the lips of the American people when they say, "Give us back our neighborhoods;" "Allow us to walk our streets;" "Give our children safe schools to learn in" -- "Help us, Mr. President!"

Inconsistent
with
budget
summary
document ↑

And we shouldn't kid ourselves. The \$1.8 billion needed to pay for last year's drug bill is just a down-payment. It took more than a year for things to get this bad, and it will take more than a year for them to get better. We're going to have to make up our minds to continue funding the drug fight, fully, for as long as it takes to lift the siege of America and set our people free.

Second, we must provide drug treatment for any addict in the country who wants help. Ultimately, treatment on demand -- immediate treatment, with no waiting -- must be available for every addict who wants to kick the habit. We should make this a national commitment, with a specific plan and an iron-clad deadline for reaching this goal. I propose September 5, 1993, the fourth anniversary of Dr. Bennett's strategy, as a deadline for meeting this goal that is ambitious and yet attainable.

Bennett proposal:

Increase
funding
for
treatment;
provide funds
for expectant
mothers on
drugs

In the meantime, within the next 12 months, I propose a national policy of "targeted treatment on demand": treatment for any child-addict 16 or younger, or any juvenile in the justice system; and for pregnant women and the mothers of small children, who most urgently need help with their drug habits. This is not sentimentality; it is based on hard-headed facts -- almost 20 percent of the babies born at D.C. General, here in Washington, come in to this world addicted to cocaine, and anyone here who read in the Sunday Washington Post the story about six-year old "Drooney" and his addicted mother knows why getting immediate help for these women is a national imperative.

Yes, treating all pregnant women with drug problems could cost as much as \$1.5 billion a year, but it will save us \$15 billion in health-care costs for addicted babies over the first five years of their lives. We can meet this goal more quickly with one simple, though not inexpensive, proposal -- extending medicaid to cover drug treatment -- because believe it or not, in most parts of this country, most types of drug treatment are not covered by this medical "safety net." And let me say this: we don't have to wait for volunteers for drug treatment; treatment should be part of every sentence for drug abuse and drug-related crime.

1988 Drug
Bill

Third, we must enforce our drug laws and take back our communities. It's time to take our communities back from the drug traffickers and the drug abusers, and we can do it. For example, we can declare our schools and their neighborhoods to be drug-free zones where our children can learn and play at peace, with mandatory minimum one-year prison sentences for drug offenses committed anywhere close to a school. This will not guarantee there will be no drugs at all in the schools, but it will make getting to and from school a lot safer for our kids. Congress should adopt such laws immediately, and then provide special federal funds to make them work.

We can pass special laws that empower cities and towns to brick up or tear down buildings used as "crack houses;" just get rid of them, and get rid of the destruction and death they deal out to their neighborhoods. And of course, most importantly, we must hire thousands of new cops, judges, and prosecutors to make the tough laws we pass in Washington something more than hollow threats.

Bennett proposal:

Provide assistance
to states for
alternatives to
incarceration
(i.e., boot
camps)

Fourth, we must hold drug users and traffickers accountable for their crimes. We can send young federal and state drug offenders serving short sentences for relatively minor drug violations to "boot camps," regional programs at former military bases where young adults would serve their time under military-style discipline, work and exercise -- and receive treatment. A dozen such camps could serve the whole country, easing the burden on both state and federal prisons, and they

*We strongly
oppose them*

could be the salvation of thousands of young people who might, for the first time in their lives, develop the personal discipline that could return them to a life free of crime and drugs. Another way to relieve the burden of drugs on state prison systems would be to establish 10 regional drug prisons, federal prisons where drug offenders would be placed in a rigorously drug-free environment and provided with thoroughgoing treatment programs.

We can earmark funds to assist states and communities in setting up "Do Drugs/Do Time" programs like the one in Phoenix, where anyone arrested with a small amount of drugs has the option of being charged with a felony or of enrolling in a treatment program, and paying for it out of their own pocket.

To help discourage even casual users, we can extend the federal forfeiture provisions, so that the automobiles of drug users are confiscated on the spot the moment they make a buy. These measures, and others like them, can make it clear that we are holding all drug users accountable for their contribution to the epidemic we have on our hands.

Fifth, we need to get better anti-drug mileage out of our criminal-justice system. We can insist that every person arrested in this country be tested for drug use; we can require drug treatment for those who test positive and impose pre-trial detention on those who fail to complete treatment. This can be done immediately in the federal courts, and should be accelerated in state and local courts with the federal assistance we should provide. The simple notion is this: we should use the leverage the criminal-justice system gives us over drug users to force everyone we arrest, convict, and jail to emerge from the system "drug-free."

*Bennett
proposal:
states to
drug test
arrestees,
prisoners,
parolees
as condition
of receiving
Federal
funds.*

Sixth, we need to continue and improve upon the close coordination between federal, state and local drug education, prevention, law-enforcement and treatment programs, backed by federal funding, training and information-sharing. It was to maintain and strengthen this all-important function that we created an associate director under the drug czar with specific responsibility for coordinating anti-drug activities at all levels of government.

*Bennett
proposal:
improved
coordination
through
inter-agency
committee,
information
sharing.*

Seventh, we need to engage the best and the brightest scientific minds in the country to respond to this national public-health emergency. Drug abuse is the public-health crisis in America, but our health authorities have been slow to respond to it as such. A 1983 medical journal article warned us that a crack epidemic had broken out in the Bahamas and was certain to come our way. And what did our Center for Disease Control do in response to that warning? Nothing! We need to do better; we

*Fact sheet on
Pres. Crime Package:
"This requires the
sustained cooperative
commitment of Federal,
State and local
enforcement
officials.
Apprehending violent
offenders requires
increased enforcement
personnel, improved
cooperation among
law enforcement
authorities, and not
permitting the exclusion
of evidence on legal technicalities."*

need to mobilize our medical community to cope with this public-health emergency.

We should call upon the National Academy of Sciences and the National Institute of Medicine to promptly convene a national commission on medical responses to drug addiction. This blue-ribbon panel should be told to identify the most promising medical prevention, treatment and research strategies, including an intensive program to find a pharmacological "blocking agent" for crack cocaine; and we can set a deadline for their report. And while we're at it, we can require the FDA to speed approval of any medical remedy that promises more effective drug treatment. Promising research is already under way on such drugs, and if they prove to be effective and safe, they should be made available to drug users as quickly as possible.

Eighth, we must impose irresistible pressure on the international drug cartels and the nations which tolerate them. We can insist on something that Congress has urged repeatedly and fruitlessly, that both the State and Defense departments, as well as the intelligence community, recognize the drug crisis as a top priority among their responsibilities, and act upon that belated recognition. Specifically, we can direct the Secretary of State to initiate negotiations toward the formation of a multinational anti-drug strike-force, under the auspices of the United Nations and the Organization of American States, to combat the drug traffickers wherever we find them. And we can create a new Assistant Secretary of Defense for drug operations and establish a unified drug command for the military services, including our military contribution to any multinational drug strike-force. It's time to exert our diplomatic resources and our military strength in our own defense, and we can do it.

Ninth, and finally, though again by no means exclusively, we need education and prevention programs that go beyond simple warnings and brochures. We need a fundamental change in attitudes, starting with the media and the entertainment industry. We can insist, and we should insist, that our singers and songwriters, our actors and actresses, our athletes and our coaches, become the role models in fact that they believe themselves to be and we want them to be. In our tens of millions, we invite them into our homes and our hearts, and we should be able to call on them in a time of such need. And I can tell you there is genuine interest in doing more among the major networks and entertainment leaders.

I have already spoken with the chairman of the board of CBS and the president of Paramount, and I intend to follow up soon with other leaders in the business. They are ready and willing to play a part in helping change the attitudes of our young people toward drugs, and they are talking about more than a few more public-service spots about drugs. I believe we should take

Statement
encouraging
this in
1988 Drug
Bill.

Bennett
plans make
Hollywood +
media
major arm of
anti-drug program

every possible advantage of their interest, their creativity and their power to persuade. It will certainly take some bold, innovative leadership to mount an industry-wide campaign, but we can settle for nothing less.

*Reagan
Administration
Initiative*

We must continue and improve everything we are already doing in drug education, from pre-kindergarten and through high school, and we must extend anti-drug education into the community. Specifically, we can do things like fund Boys and Girls Clubs for every public-housing project in America. These clubs provide just the kind of results we want for our least-privileged children, a reduction in the frequency and severity of substance abuse, and an improvement in attendance and performance in school.

These are all things we can do, but these few examples are merely representative of the many and multifaceted initiatives we should take in our struggle with illegal drugs.

In the end, we must return to a basic truth: America does not have a drug problem, but many drug problems. What motivates a 45-year old lawyer to cruise in his BMW for a snort of cocaine is profoundly different from what lures a 13-year-old ghetto youth to crack, or from what leads an 18-year-old pregnant girl to do drugs, even though she knows she's killing the life inside her. The solutions we pursue now must be as many and as varied as the problems that we face, but we must pursue them, seriously, creatively and relentlessly, so that we can no longer say about our "war on drugs" what G.K. Chesterton said about the Christian ideal: not that it has been tried and found wanting, but that it has been found difficult and left untried.

DEPARTMENT OF JUSTICE
1988 - 1989
INTE ENFORCEMENT RELATED RESOURCES
(Dollars in thousands)

Organization	1988 Request		1988 Enacted		1989 Request to Congress		1989 Appropriation	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Drug Enforcement Administration	5,658	\$522,047	5,604	\$494,076	5,682	\$538,072	5,661	\$534,500
		(423)				+254		
Federal Bureau of Investigation	1,996	123,074	1,573	102,404	1,613	110,893	1,867	129,273
		(2)				+107		
Criminal Division	39	3,330	37	3,238	41	3,269	147	10,707
		(14)				(4)		
Tax Division	40	2,861	34	2,216	36	2,361	32	2,200
		(43)						
U.S. Attorneys	1,486	102,502	1,143	80,747	1,314	95,609	1,874	141,392
U.S. Marshals Service	1,165	84,276	1,146	73,267	1,210	83,033	1,834	123,840
		(448)						
Support of U.S. Prisoners		29,996	0	29,498	0	47,306	0	58,353
		(22,002)						
Federal Prison System	4,402	362,053	4,178	340,951	4,835	506,997	5,670	579,545
Immigration and Naturalization Service	33	1,343	852	70,040	998	94,200	1,366	109,200
Office of Justice Programs	3	4,687	23	85,700	18	6,600	60	102,865
IMBROF-U.S. National Central Bureau	6	200	9	766	11	808	13	1,100
Subtotal, Direct	14,828	1,236,369	14,599	1,282,903	15,758	1,489,148	18,524	1,792,975
Assets Forfeiture Fund	0	120,000	0	160,610	0	200,000	0	323,768
Total	14,828	1,356,369	14,599	1,443,513	15,758	1,689,148	18,524	2,116,743

1990 Request for the Department of Justice - Drugs
(\$ in millions)

	<u>Regular Appropriations</u>	<u>Violent Crime Package</u>
DEA	551.2	
FBI	91.3	
Criminal Div.	10.2	1.0
Tax Div.	0.8	
Attorneys	113.2	24.0
Marshals	151.1	7.0
Support of Prisoners	79.4	7.0
Federal Prison System	664.1	700.0
INS	89.0	
Office of Justice Programs	164.8	6.0
Interpol	1.1	
OCDE	176.6*	
Sub-totals	2092.8	745.0
Total \$2.837.8		

* DOJ Only

Similarities Between Biden and Bennett Proposals

Biden Proposal

Treatment on demand for pregnant women on drugs

Medicaid to cover expanded treatment (oral addition during speech)

"Boot camps" for relatively minor drug violations

Drug test everyone arrested

Improve coordination of law enforcement programs, including Federal funding, training, and information-sharing

Work with media and entertainment industry to change attitudes

Bennett Proposal

Increase funding for pregnant women on drugs

Bennett proposal in draft strategy

Federal assistance to States to explore prison alternatives, including boot camps

States to drug test arrestees as condition of receiving Federal funds

Proposals include improved coordination through coordinating group, "improve drug automation and information systems"

Bennett has spoken publicly about making Hollywood major arm of anti-drug program

Similarities Between Biden and Crime Proposals

Biden Proposals

Enforce drug laws and take back our streets

- enforce school yard law

Hold drug users and traffickers accountable for their crimes

Better mileage out of our criminal justice system

- drug test all arrestees
- drug-free status as condition of release
- impose pre-trial detention for those failing drug test
- improve coordination through training, information sharing

Crime Package

Major objective of crime package

- enforce all laws

Assure that criminals are held accountable for their offenses

Strengthen the Nation's criminal justice system

- presently funding model programs
- drug testing as condition of release
- impose pre-trial detention for serious Federal firearms offenses
- sustain cooperative Federal commitment of Federal, State and local law enforcement officials

Comparison of what Senator Biden claims the President did not fund regarding 1988 Drug Bill compared to proposals in the President's Crime Package.

<u>Biden Proposals</u>	<u>Crime Package</u>
FBI Agents - 200	300 (+100)
U.S. Marshals - 60	150 (+90)
ATF Agents - 100	375 (+275)
New Prison Beds - 2000	24,000 Federal (+22,000)

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
15. Note	From POTUS to David Bates Re: Biden's speech (1 pp.)	8/2/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

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(Document Follows)
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Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

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

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PRM. Removed as a personal record misfile.

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

(b)(1) National security classified information [(b)(1) of the FOIA]
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(b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE
WASHINGTON



DATE:

8-2-89

FROM THE PRESIDENT

TO:

David Bates cc Jim C

Re: Biden's Blast.

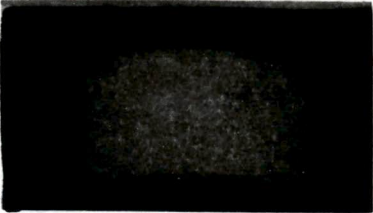
I think we need a point by point refutation
of Biden's speech.

Please have drug office or
someone answer htis point
by point for me..... for example we
are calling for laws that he says are
on the books -- how come? etc. etc.

gb

cc: Governor Sununu





THE WHITE HOUSE
WASHINGTON
August 1, 1989

MR. PRESIDENT:

Attached at TAB A is a
response to your note.

Please let me know if you
would like anything more
from Bill Bennett on this.


Jim
Jim Cicconi



Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
16. Note	From POTUS to Jim Cicconi Re: Biden's speech (1 pp.)	8/1/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By Doc (NLGB) on 4/10/2008

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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

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P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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THE WHITE HOUSE
WASHINGTON

DATE: 8-1-89

FROM THE PRESIDENT

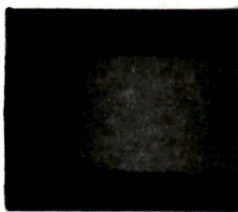
To:

Jim C

please get me some analysis
of biden's comment./

why?

what substance?



States Back Bush Call For Better Schools;
But Governors Fear Bearing Brunt Of Costs

CHICAGO -- The nation's governors Monday welcomed President Bush's invitation to help formulate the next steps in education reform, but expressed alarm at Washington's inclination to send state governments the bill for improvements in social programs.

Before Bush arrived at the annual summer meeting of the National Governors' Association, bearing an invitation to a Sept. 27-28 "education summit" at an undetermined location, the governors spent an entire 90-minute executive session trading concerns about the way new federal mandates in health and welfare are driving up state budget costs with no compensating increase in federal aid....

In his brief appearance, Bush invited the governors to meet with him and key Administration officials in September "to strengthen our schools, to enlarge opportunities and to improve our nation's education performance."

(Dan Balz & David Broder, Washington Post, A9)

BIDEN: BUSH BREEDING CYNICISM IN WAR ON DRUGS

President Bush is breeding cynicism in the war on drugs by calling for laws that already are on the books and failing to seek full funding of drug legislation, says the chairman of the Senate Judiciary Committee.

"The war of words, what has it wrought?" asked Sen. Biden. "What it has wrought so far is cynicism, political opportunism, and some despair."

Bush "is able to stand up at his inauguration and say, 'This scourge will end,' and then have no one 'call' him when he refuses to use the tools already available to him to fight the war on drugs," Biden said Monday in a speech at the National Press Club....

Among the laws sought by Bush that Congress already has passed, Biden contended, are longer sentences for drug dealers, the death penalty for some drug dealers, minimum prison terms for weapons offenders and preventive detention for people arrested with drugs.

(Carolyn Skorneck, AP)

DRUG ABUSE SAID TO DECLINE

U.S. Study Shows Big Drop From '85 To '88

A major new federally sponsored study has concluded that the number of Americans using cocaine, marijuana and other illegal drugs declined by 37 percent over the past four years, a sharp drop that surprised many of the government's leading anti-drug experts.

At the same time, the study -- based on a nationwide household survey of 8,814 respondents -- concluded that cocaine addiction has grown substantially, especially among the young and unemployed. Between 1985 and 1988, the number of people who used cocaine once a week or more jumped from 647,000 to 862,000, a one-third increase that National Drug Policy Director Bennett called "shocking and unacceptable."

The study also estimated that 484,000 people used crack...at least once a month and that 2.4 million had tried the drug once. These figures represent the first government estimates on the prevalence of crack....

The survey findings reflected trends that have been reported for some time, particularly the growing intolerance of many middle-class Americans towards drug use of any kind, including alcohol and tobacco.

(Michael Isikoff, Washington Post, A1)

-more-

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
17a. Memo	From David Q. Bates to POTUS Re: Senator Biden's speech yesterday on drug policy (2 pp.)	8/1/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DJL (NLGB) on 4/10/2008

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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THE WHITE HOUSE

WASHINGTON
August 1, 1989

THE PRESIDENT
100-100-100-100

MEMORANDUM FOR THE PRESIDENT

FROM: DAVID Q. BATES

SUBJECT: Senator Biden's speech yesterday on Drug Policy

This memo responds to your request to provide additional information about Senator Joseph Biden's address yesterday to the National Press Club. A copy of Biden's speech about the war on drugs is attached.

Background: The drug issue has been a unifying one for Republicans and divisive for many Democrats. To prepare for the Administration's September 5th announcement of our drug strategy, a group of key Democratic Senators has been meeting to discuss ideas for a Democratic drug and crime package. The task force is composed of Senators Biden, Kennedy, Moynihan, Bentsen, Riegle, Nunn, Liberman, Graham, Kerry, Hollings, Sasser, Pell and Glenn.

Biden had planned to introduce a comprehensive drug bill this week. Instead, he yesterday called Director Bennett and promised to wait until after release of our drug strategy on September 5. Biden considers himself personally responsible for creation of the Office of National Drug Control Policy, and he used his speech at the Press Club to lay down a series of markers against which the Administration's new drug strategy can be judged by the Democrats.

If the Administration's strategy is well-conceived and popular, Biden will no doubt take credit for creating the Drug Czar and steering him on the correct path. If the plan does not conform to his wishes, he will surely criticize you, the Drug Czar and your Administration for a lack of commitment to the war on drugs.

Biden's speech: Biden accuses you of "hypocrisy" and "empty promises" (see pages 1-3 of his speech). He considers the size of the Administration's budget request to be the chief measure of your commitment to the war on drugs. In particular, Biden attacks the Administration for failing to recommend full funding for the 1988 Drug Bill.

This criticism should be blunted when Congress receives our drug strategy, which will call for significant increased spending. Bennett has settled on a general agreement about spending with

Dick Darman and Governor Sununu. Much of the proposed increase would come from reprogramming of our budget priorities.

After criticizing the Administration, Biden's speech sets out nine "statements of principle" (see pages 4-9) that should guide our drug strategy:

- we must pay for what we promise (e.g., full \$1.8 billion funding for the 1988 Drug Bill);
- provide treatment for any addict that needs help;
- enforce our drug laws and "take back" our communities from drug dealers;
- hold drug users and traffickers accountable for their crimes;
- get better anti-drug mileage out of our criminal justice system;
- improve coordination among government and non-government entities involved in the war on drugs;
- improve anti-drug research;
- impose "irresistible pressure" on the international drug cartels; and
- improve the effectiveness of education and prevention programs.

Obviously a number of these themes will be a part of Director Bennett's strategy, which goes to the full DPC this week for their initial consideration. The international portion of the strategy is being considered in the NSC.

Attachment

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
17b. Speech	Senator Joseph R. Biden, Jr. at National Press Club Re: Administration drug policy w/annotations (9 pp.)	7/31/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DSL (NLGB) on 12/12/2017

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

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①

U.S. Senator Joseph R. Biden, Jr.

National Press Club
Washington, D.C.
Monday, July 31, 1989

KNOW THE TALK

"War on drugs," "End the scourge," "Take back our streets," "Just say no" -- you've heard them all before, the slogans, the war of words against drugs. What have these words wrought? Cynicism, opportunism, and despair. Cynicism among many, but particularly the press; opportunism on the part of countless politicians, including the President; and despair in our schools, our churches and our homes.

CALLS
P.
OPPORTUNIST

Let me start with the cynicism. It is the prevailing attitude among observers of the drug debate, for how else can it be explained that President Bush is taken vigorously to task for pledging a mission to Mars, or for proposing to rebuild the economies of eastern Europe, without providing the funding to back up his promises -- and yet he is able to stand up at his inauguration and say "this scourge will end," and then have no one "call" him when he refuses to use the tools already available to him to fight the "war on drugs." And how else can it be explained that the President is able to go to the Law Enforcement Training Institute at Glynnco, Georgia, and call for a new package of anti-crime legislation -- when, just a few months earlier, he had proposed cutting the funding for the very institute at which he spoke? How else can such hypocrisy go unnoticed, especially when it is not an isolated incident, but part of a continuing pattern?

HYPOCRISY

Such has been the track record of the Bush administration from the beginning when it comes to waging its "war on crime and drugs." For example, President Bush came to my state and called for longer sentences for drug dealers. But, Mr. President, Congress passed a law in 1984 that took away judges' discretion to shorten prison terms for drug dealers. Mr. President, we don't need a new law -- we have it already.

??

Mr. President, you've spoken at length about the need for a death penalty for drug dealers, minimum prison terms for weapons offenders, preventive detention for persons arrested with drugs. But Mr. President, we already passed such laws -- in 1984, 1986, and again in 1988. You don't need new laws to do these things; you already have them already.

what
is
answerPRES. STAND TO VIOLENT CRIMINALS --
LIKE DRUG.PRES.
VIOLENT
CRIME
"LONGER
"ELIMINATE
PLEA
BARGAIN"

Mr. President, we've passed 208 new, tough anti-crime laws in the past five years. If you want more, I am sure the Congress will oblige. But before we do, it's time to take a look at what you could have to fight you "war on drugs," but haven't bothered to ask for. In 1988, Congress passed a sweeping anti-drug bill. But in 1989, Mr. President, you showed no interest in using that law to fight crime and drugs in this country. You failed to put in your budget the money needed to make these tough laws work.

FAILING TO
ADDRESS

Let me be specific. Here's what we included in that drug bill that the President never put in his budget: more than 700 new DEA agents, who could have busted almost 2,500 drug king-pins in a year's time; 1,700 new Coast Guard officers, our first line of defense against imported drug supplies; almost 600 other federal law-enforcement officers, including 200 FBI agents, 50 marshals, 100 new ATF agents, and more; enough money to start 1,000 new state and local police task forces, which could have shut down open-air drug markets all over the country; treatment beds for almost a quarter million addicts who now are waiting for treatment, people who want to kick the habit, but are told they have to wait months for openings in programs to help them, months during which they rob and mug to pay for the craving they can not or will not curtail. We could have helped 230,000 such people this year, but President Bush would not pay for it.

The list of items President Bush "just said no" to goes on and on: 125 drug education projects, 60 anti-gang task forces, 2,000 new prison beds, and much more. With all these items, the President not only refused to pay for them, but actually threatened a veto if Congress tried to force them on him.

FUNDS
20,000
NEW
BEDS

Mr. President, you say you want a "war on drugs," but if that's what you want, we need another D-Day. Instead, you're giving us another Vietnam: a limited war, fought on the cheap, financed on the sly, with no clear objectives, and ultimately destined for stalemate and human tragedy. That's not fair to the victims of crime, or to the victims of drugs, or those we ask to protect all of us from becoming victims -- because what we have now is a half-million police officers trying to stop 36 million crimes; each prosecutor handling 60 cases at one time; court calendars backed up, with a year's delay in sending some criminals to jail; and treatment centers telling some addicts that they must wait up to two years for help. And what has President Bush offered in response to this crisis? Only cardboard cops, cut-out courts, paper prosecutors, pretend prisons, and tenuous treatment.

"SLY,
...CHEAP

The results of the President's failure to match his opportunistic rhetoric with anything more than hollow promises, has been despair -- the anguish and despair of families whose children have been caught in the cross-fire of the drug gangs, the despair of the school teacher unable to penetrate young minds

SHORT GAVLED
THE SYSTEM
SPEAKER NOTE

WE ↑ \$1.3

FOR 9-11

sealed off by drugs rather than blossoming with ideas, the despair of the hospital worker caring for drug-addicted newborns, the despair of the police officer whose partner who lost his life to a crack trafficker back on the street only hours after they had locked him up.

This despair is real, but it doesn't have to be. Yes, we know that almost half the high-school students in America still aren't aware that cocaine is harmful, but we also know that among those who do believe it is harmful -- and that number has risen from only a third to more than half just since 1986 -- only seven percent ever try it. When the word gets out, the kids wise up. Yes, we know that 70 percent of the crimes committed in America are drug-related, and that the average heroin addict, for example, commits almost 200 crimes a year to support his habit; but we also know that crimes committed by drug users fall by 84 percent after they receive the treatment they need. Yes, we know that the murder of innocent bystanders caught in the cross-fire near drug markets has gone up 255 percent in the past two years alone -- but we also know that when intensive law-enforcement efforts succeed in closing down a drug market, violent crime in the surrounding area drops by as much as 67 percent. So there is despair in America -- and why not, there's plenty of cause for it -- but there's cause for hope, too.

It is because there is hope -- reason to believe that we can reduce the drug epidemic in America -- that we created the drug-czar post in 1988. We created the drug czar to learn what's being tried in the country that works, and what doesn't; to find out what we know about the drug problem, and what we have yet to learn; and to attempt to put an end to the bureaucratic turf battles among federal agencies that have plagued our anti-drug efforts. We also counted on the drug czar to move the drug issue beyond the realm of political profit-taking and into the sphere of genuine progress -- but in the light of what has happened in recent weeks, it appears that the Bush Administration may be more interested in partisan politics than in effective policy.

Frankly, I am concerned. According to some press accounts, it appears that our new drug czar, Dr. William Bennett, has spent more time consulting with Lee Atwater on his September drug strategy than he has spent consulting such experienced Congressional drug-policy experts as Pat Moynihan, Ted Kennedy or Jack Brooks. He's taken the time while traveling the country to take pot shots at Congress and to make fun of Congressman Rangel, while we wait and wonder what his plan will contain. I know that, to quote my friend Pat Moynihan, "It could be said that nothing is lost here save dignity," but I am concerned, so there are two things I want to do now: first, make it clear what is required of Dr. Bennett, by law; and second, make it clear what the Congress expects of any plan that is submitted -- to lay down a few markers.

AFTER
BENNETT

ATWATER

"Know who
Franklin to
Thinking to
BEST"

(4)

Let me start with what the drug-czar law requires Dr. Bennett to do. First, he must offer "comprehensive, research-based, long-range goals for reducing drug abuse in the United States." These goals must be visionary and ambitious -- but they must also be rooted in reality. Second, he must "include short-term, measurable objectives which the Director determines may be realistically achieved in the two-year period" following the submission of his plan. That is, he must set out some immediate targets -- some guideposts we can use to judge in the short-term if we are headed in the right direction. Third, he must "describe the balance between resources devoted to supply-reduction and demand-reduction." And let me just note, as evidence of how committed Congress is to the notion that our drug strategy should be evenly divided between demand-reduction and supply-reduction, we created two deputies for the drug czar: a deputy for supply control and one for demand control. Fourth, the drug director must "review state and local drug-control activities, to insure that the United States pursues well-coordinated and effective drug control at all levels of government." And fifth, he must offer "a complete assessment of how (his) budget proposal is intended to implement the strategy, and whether the funding levels contained in such proposal are sufficient to implement such strategy" -- in other words, if he plans to spend enough and if he plans to spend it right. This, nothing more and nothing less, is what we will be expecting from the drug director in September.

SHORT CUTTING

Now let us consider what Dr. Bennett should aim at in his plan -- and rather than lay out an entire strategy that I have, in fact, prepared; rather than offer a Democratic strategy to get the political jump on the Administration; rather than respond to the political challenge that has already been laid down by the Administration -- in the hope that Congress and the Administration can work together to assure the success of the new drug director, I offer nine points of what I hope will be our mutual understanding of how Dr. Bennett's plan should fulfill the purposes of the law. These points should not be taken as an attempt to hold the Director to the requirements of my own anti-drug program, but as statements of principle, all derived from a national consensus, that I believe his plan must in some way reflect. If we can maintain that kind of principled agreement, if we can avoid proposals that seek only partisan advantage, and if Dr. Bennett's plan offers a realistic prospect of putting those principles into practice, I believe he can count on the support of the Congress, and that we can, at long last, offer the American people hope that illegal drugs can, indeed, be brought under control.

I will offer some specific ideas as examples to illustrate how each of these broad goals might be effectively approached, but it is achieving the general thrust of those principles that most concerns me today. These ideas, as well as 50 more such ideas I have passed out to you today, are only possibilities, are only some of the options that show that the principles I am setting out are attainable, pragmatic, and realistic. Dr. Bennett should consider these ideas, and many more like them, because it is critical that he not shy away from setting specific, concrete and significant goals in his proposal.

So let me begin my challenge to Dr. Bennett with this fundamental premise: first, we must pay for what we promise. I have already spoken in some detail on this point, and I won't belabor it, other than to say that it's time to pay off on our promises to fight drugs, and to keep paying until the job is done. That means, immediately, finding the full \$1.8 billion we need to pay for last year's drug bill. And that means, so there is no doubt about what I am saying, even raising taxes, if need be, to pay for these anti-drug programs. Now, I understand that what I just said runs directly opposite to the politics of "read my lips" which have taken hold in Washington, but I believe that the people are ahead of the politicians on this score. That's why I went to the Senate floor a few months ago and proposed an amendment to raise excise taxes a penny a beer, five cents on a bottle of wine, and two cents per pack of cigarettes -- to raise the money needed to pay for the 1988 drug bill. Mr. President, we also read your lips when you said, "this scourge will end." Now it is time for you and the Congress to read the lips of the American people when they say, "Give us back our neighborhoods;" "Allow us to walk our streets;" "Give our children safe schools to learn in" -- "Help us, Mr. President!"

And we shouldn't kid ourselves. The \$1.8 billion needed to pay for last year's drug bill is just a down-payment. It took more than a year for things to get this bad, and it will take more than a year for them to get better. We're going to have to make up our minds to continue funding the drug fight, fully, for as long as it takes to lift the siege of America and set our people free.

→
TREATMENT
IN CONVENT
PLAN
Second, we must provide drug treatment for any addict in the country who wants help. Ultimately, treatment on demand -- immediate treatment, with no waiting -- must be available for every addict who wants to kick the habit. We should make this a national commitment, with a specific plan and an iron-clad deadline for reaching this goal. I propose September 5, 1993, the fourth anniversary of Dr. Bennett's strategy, as a deadline for meeting this goal that is ambitious and yet attainable.

6

In the meantime, within the next 12 months, I propose a national policy of "targeted treatment on demand": treatment for any child-addict 16 or younger, or any juvenile in the justice system; and for pregnant women and the mothers of small children, who most urgently need help with their drug habits. This is not sentimentality; it is based on hard-headed facts -- almost 20 percent of the babies born at D.C. General, here in Washington, come in to this world addicted to cocaine, and anyone here who read in the Sunday Washington Post the story about six-year old "Drooney" and his addicted mother knows why getting immediate help for these women is a national imperative.

TARGETED ✓
TREATMENT

Focus on
KIDS.

Yes, treating all pregnant women with drug problems could cost as much as \$1.5 billion a year, but it will save us \$15 billion in health-care costs for addicted babies over the first five years of their lives. We can meet this goal more quickly with one simple, though not inexpensive, proposal -- extending medicaid to cover drug treatment -- because believe it or not, in most parts of this country, most types of drug treatment are not covered by this medical "safety net." And let me say this: we don't have to wait for volunteers for drug treatment; treatment should be part of every sentence for drug abuse and drug-related crime.

TREATMENT ✓
SENTENCE

Third, we must enforce our drug laws and take back our communities. It's time to take our communities back from the drug traffickers and the drug abusers, and we can do it. For example, we can declare our schools and their neighborhoods to be drug-free zones where our children can learn and play at peace, with mandatory minimum one-year prison sentences for drug offenses committed anywhere close to a school. This will not guarantee there will be no drugs at all in the schools, but it will make getting to and from school a lot safer for our kids. Congress should adopt such laws immediately, and then provide special federal funds to make them work.

TAKE
BACK
OUR
CHILD

MADE FUN
OF

We can pass special laws that empower cities and towns to brick up or tear down buildings used as "crack houses;" just get rid of them, and get rid of the destruction and death they deal out to their neighborhoods. And of course, most importantly, we must hire thousands of new cops, judges, and prosecutors to make the tough laws we pass in Washington something more than hollow threats.

DID IN
DC -
BIG
WAY

Fourth, we must hold drug users and traffickers accountable for their crimes. We can send young federal and state drug offenders serving short sentences for relatively minor drug violations to "boot camps," regional programs at former military bases where young adults would serve their time under military-style discipline, work and exercise -- and receive treatment. A dozen such camps could serve the whole country, easing the burden on both state and federal prisons, and they

BOOT
CAMPS

⑦

could be the salvation of thousands of young people who might, for the first time in their lives, develop the personal discipline that could return them to a life free of crime and drugs. Another way to relieve the burden of drugs on state prison systems would be to establish 10 regional drug prisons, federal prisons where drug offenders would be placed in a rigorously drug-free environment and provided with thoroughgoing treatment programs.

THORNBURG We can earmark funds to assist states and communities in setting up "Do Drugs/Do Time" programs like the one in Phoenix, where anyone arrested with a small amount of drugs has the option of being charged with a felony or of enrolling in a treatment program, and paying for it out of their own pocket.

DO
DRUGS/
DO
TIME
EXPAND -
IN PRES
PLAN.
To help discourage even casual users, we can extend the federal forfeiture provisions, so that the automobiles of drug users are confiscated on the spot the moment they make a buy. These measures, and others like them, can make it clear that we are holding all drug users accountable for their contribution to the epidemic we have on our hands.

BENNETT Fifth, we need to get better anti-drug mileage out of our criminal-justice system. We can insist that every person arrested in this country be tested for drug use; we can require drug treatment for those who test positive and impose pre-trial detention on those who fail to complete treatment. This can be done immediately in the federal courts, and should be accelerated in state and local courts with the federal assistance we should provide. The simple notion is this: we should use the leverage the criminal-justice system gives us over drug users to force everyone we arrest, convict, and jail to emerge from the system "drug-free."

TEST ON
WAY
OUT.
SPECIFIC
Sixth, we need to continue and improve upon the close coordination between federal, state and local drug education, prevention, law-enforcement and treatment programs, backed by federal funding, training and information-sharing. It was to maintain and strengthen this all-important function that we created an associate director under the drug czar with specific responsibility for coordinating anti-drug activities at all levels of government.

Seventh, we need to engage the best and the brightest scientific minds in the country to respond to this national public-health emergency. Drug abuse is the public-health crisis in America, but our health authorities have been slow to respond to it as such. A 1983 medical journal article warned us that a crack epidemic had broken out in the Bahamas and was certain to come our way. And what did our Center for Disease Control do in response to that warning? Nothing! We need to do better; we

(8)

need to mobilize our medical community to cope with this public-health emergency.

2.
RESEARCH

BENNETT
PLAN
LIST OF
PRIORITIES

We should call upon the National Academy of Sciences and the National Institute of Medicine to promptly convene a national commission on medical responses to drug addiction. This blue-ribbon panel should be told to identify the most promising medical prevention, treatment and research strategies, including an intensive program to find a pharmacological "blocking agent" for crack cocaine; and we can set a deadline for their report. And while we're at it, we can require the FDA to speed approval of any medical remedy that promises more effective drug treatment. Promising research is already under way on such drugs, and if they prove to be effective and safe, they should be made available to drug users as quickly as possible.

Eighth, we must impose irresistible pressure on the international drug cartels and the nations which tolerate them. We can insist on something that Congress has urged repeatedly and fruitlessly, that both the State and Defense departments, as well as the intelligence community, recognize the drug crisis as a top priority among their responsibilities, and act upon that belated recognition. Specifically, we can direct the Secretary of State to initiate negotiations toward the formation of a multinational anti-drug strike-force, under the auspices of the United Nations and the Organisation of American States, to combat the drug traffickers wherever we find them. And we can create a new Assistant Secretary of Defense for drug operations and establish a unified drug command for the military services, including our military contribution to any multinational drug strike-force. It's time to exert our diplomatic resources and our military strength in our own defense, and we can do it.

Ninth, and finally, though again by no means exclusively, we need education and prevention programs that go beyond simple warnings and brochures. We need a fundamental change in attitudes, starting with the media and the entertainment industry. We can insist, and we should insist, that our singers and songwriters, our actors and actresses, our athletes and our coaches, become the role models in fact that they believe themselves to be and we want them to be. In our tens of millions, we invite them into our homes and our hearts, and we should be able to call on them in a time of such need. And I can tell you there is genuine interest in doing more among the major networks and entertainment leaders.

ANNOUNCED

JIM
BULLER

I have already spoken with the chairman of the board of CBS and the president of Paramount, and I intend to follow up soon with other leaders in the business. They are ready and willing to play a part in helping change the attitudes of our young people toward drugs, and they are talking about more than a few more public-service spots about drugs. I believe we should take

(9)

every possible advantage of their interest, their creativity and their power to persuade. It will certainly take some bold, innovative leadership to mount an industry-wide campaign, but we can settle for nothing less.

We must continue and improve everything we are already doing in drug education, from pre-kindergarten and through high school, and we must extend anti-drug education into the community. Specifically, we can do things like fund Boys and Girls Clubs for every public-housing project in America. These clubs provide just the kind of results we want for our least-privileged children, a reduction in the frequency and severity of substance abuse, and an improvement in attendance and performance in school.

These are all things we can do, but these few examples are merely representative of the many and multifaceted initiatives we should take in our struggle with illegal drugs.

In the end, we must return to a basic truth: America does not have a drug problem, but many drug problems. What motivates a 45-year old lawyer to cruise in his BMW for a snort of cocaine is profoundly different from what lures a 13-year-old ghetto youth to crack, or from what leads an 18-year-old pregnant girl to do drugs, even though she knows she's killing the life inside her. The solutions we pursue now must be as many and as varied as the problems that we face, but we must pursue them, seriously, creatively and relentlessly, so that we can no longer say about our "war on drugs" what G.K. Chesterton said about the Christian ideal: not that it has been tried and found wanting, but that it has been found difficult and left untried.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
17c. List	Comparing Biden and POTUS numbers (1 pp.)	n.d.	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DJL (NLGB) on 5/12/2005

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
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Freedom of Information Act - [5 U.S.C. 552(b)]

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(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

Biden

Pres.

FBI

200

300 ✓

U.S. Marshalls

60

150 ✓

ATF

100

375 ✓

DEA Agents

700

0

Coast Guard

1700

0

State & Local
Task Forces (police)

1,000

0

Anti Gang
Task-Forces

60

New Prison Beds

24,000 ✓

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
18. Note	From POTUS to David Bates Re: Biden's speech [same as doc 15] (1 pp.)	8/2/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DSL (NLGB) on 4/10/2008

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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**THE WHITE HOUSE
WASHINGTON**

DATE: 8-2-89

FROM THE PRESIDENT

TO: David Bates cc Jim C
Re: Biden's Blast.

I think we need a point by point refutation
of Biden's speech.

Please have drug office or
someone answer htis point

by point for me..... for example we
are calling for laws that he says are
on the books -- how come? etc. etc.

gb

cc: Governor Sununu

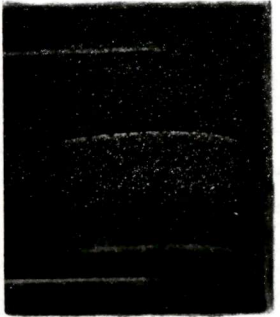


THE WHITE HOUSE
WASHINGTON
August 1, 1989

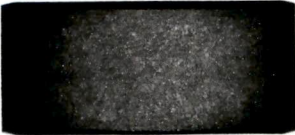
MR. PRESIDENT:

Attached at TAB A is a
response to your note.

Please let me know if you
would like anything more
from Bill Bennett on this.




Jim Cicconi



Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
19. Note	From POTUS to Jim Cicconi Re: Biden's speech [same as doc 16] (1 pp.)	8/1/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
 (Document Follows)
 By DJL (NLGB) on 4/10/2008

Date Closed:	11/30/2004	OA/ID Number:	29180-009
FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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

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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

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

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 (b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE
WASHINGTON

DATE: 8-1-89

FROM THE PRESIDENT

To:

Jim C

please get me some analysis
of biden's comment./

why?

what substance?

Tuesday, August 1, 1989 -- A-10

THE PRESIDENT HAS SEEN
8-1-89

States Back Bush Call For Better Schools;
But Governors Fear Bearing Brunt Of Costs

CHICAGO -- The nation's governors Monday welcomed President Bush's invitation to help formulate the next steps in education reform, but expressed alarm at Washington's inclination to send state governments the bill for improvements in social programs.

Before Bush arrived at the annual summer meeting of the National Governors' Association, bearing an invitation to a Sept. 27-28 "education summit" at an undetermined location, the governors spent an entire 90-minute executive session trading concerns about the way new federal mandates in health and welfare are driving up state budget costs with no compensating increase in federal aid....

In his brief appearance, Bush invited the governors to meet with him and key Administration officials in September "to strengthen our schools, to enlarge opportunities and to improve our nation's education performance."

(Dan Balz & David Broder, Washington Post, A9)

BIDEN: BUSH BREEDING CYNICISM IN WAR ON DRUGS

President Bush is breeding cynicism in the war on drugs by calling for laws that already are on the books and failing to seek full funding of drug legislation, says the chairman of the Senate Judiciary Committee.

"The war of words, what has it wrought?" asked Sen. Biden. "What it has wrought so far is cynicism, political opportunism, and some despair."

Bush "is able to stand up at his inauguration and say, 'This scourge will end,' and then have no one 'call' him when he refuses to use the tools already available to him to fight the war on drugs," Biden said Monday in a speech at the National Press Club....

Among the laws sought by Bush that Congress already has passed, Biden contended, are longer sentences for drug dealers, the death penalty for some drug dealers, minimum prison terms for weapons offenders and preventive detention for people arrested with drugs.

(Carolyn Skorneck, AP)

DRUG ABUSE SAID TO DECLINE
U.S. Study Shows Big Drop From '85 To '88

A major new federally sponsored study has concluded that the number of Americans using cocaine, marijuana and other illegal drugs declined by 37 percent over the past four years, a sharp drop that surprised many of the government's leading anti-drug experts.

At the same time, the study -- based on a nationwide household survey of 8,814 respondents -- concluded that cocaine addiction has grown substantially, especially among the young and unemployed. Between 1985 and 1988, the number of people who used cocaine once a week or more jumped from 647,000 to 862,000, a one-third increase that National Drug Policy Director Bennett called "shocking and unacceptable."

The study also estimated that 484,000 people used crack...at least once a month and that 2.4 million had tried the drug once. These figures represent the first government estimates on the prevalence of crack....

The survey findings reflected trends that have been reported for some time, particularly the growing intolerance of many middle-class Americans towards drug use of any kind, including alcohol and tobacco.

(Michael Isikoff, Washington Post, A1)

-more-

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
20a. Memo	From David Q. Bates to POTUS Re: Senator Biden's speech yesterday on drug policy [same as doc 17a] (2 pp.)	8/1/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
(Document Follows)
By DJL (NLGB) on 4/10/2008

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FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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

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PRM. Removed as a personal record misfile.

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

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THE PRESIDENT HAS SEEN

THE WHITE HOUSE

WASHINGTON
August 1, 1989

1000-100-1-1-1-1

MEMORANDUM FOR THE PRESIDENT

FROM: DAVID Q. BATES

SUBJECT: Senator Biden's speech yesterday on Drug Policy

This memo responds to your request to provide additional information about Senator Joseph Biden's address yesterday to the National Press Club. A copy of Biden's speech about the war on drugs is attached.

Background: The drug issue has been a unifying one for Republicans and divisive for many Democrats. To prepare for the Administration's September 5th announcement of our drug strategy, a group of key Democratic Senators has been meeting to discuss ideas for a Democratic drug and crime package. The task force is composed of Senators Biden, Kennedy, Moynihan, Bentsen, Riegle, Nunn, Liberman, Graham, Kerry, Hollings, Sasser, Pell and Glenn.

Biden had planned to introduce a comprehensive drug bill this week. Instead, he yesterday called Director Bennett and promised to wait until after release of our drug strategy on September 5. Biden considers himself personally responsible for creation of the Office of National Drug Control Policy, and he used his speech at the Press Club to lay down a series of markers against which the Administration's new drug strategy can be judged by the Democrats.

If the Administration's strategy is well-conceived and popular, Biden will no doubt take credit for creating the Drug Czar and steering him on the correct path. If the plan does not conform to his wishes, he will surely criticize you, the Drug Czar and your Administration for a lack of commitment to the war on drugs.

Biden's speech: Biden accuses you of "hypocrisy" and "empty promises" (see pages 1-3 of his speech). He considers the size of the Administration's budget request to be the chief measure of your commitment to the war on drugs. In particular, Biden attacks the Administration for failing to recommend full funding for the 1988 Drug Bill.

This criticism should be blunted when Congress receives our drug strategy, which will call for significant increased spending. Bennett has settled on a general agreement about spending with

Dick Darman and Governor Sununu. Much of the proposed increase would come from reprogramming of our budget priorities.

After criticizing the Administration, Biden's speech sets out nine "statements of principle" (see pages 4-9) that should guide our drug strategy:

- we must pay for what we promise (e.g., full \$1.8 billion funding for the 1988 Drug Bill);
- provide treatment for any addict that needs help;
- enforce our drug laws and "take back" our communities from drug dealers;
- hold drug users and traffickers accountable for their crimes;
- get better anti-drug mileage out of our criminal justice system;
- improve coordination among government and non-government entities involved in the war on drugs;
- improve anti-drug research;
- impose "irresistible pressure" on the international drug cartels; and
- improve the effectiveness of education and prevention programs.

Obviously a number of these themes will be a part of Director Bennett's strategy, which goes to the full DPC this week for their initial consideration. The international portion of the strategy is being considered in the NSC.

Attachment

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
20b. Speech	Senator Joseph R. Biden, Jr. at National Press Club Re: Administration drug policy w/annotations (9 pp.)	7/31/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John H.
Subseries: White House Offices File
WHORM Cat.:
File Location: Policy Development (1989) [1]

Open on Expiration of PRA
 (Document Follows)
 By OSL (NLGB) on 12/12/2007

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FOIA/SYS Case #:	1998-0004-F	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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

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U.S. Senator Joseph R. Biden, Jr.

National Press Club
Washington, D.C.
Monday, July 31, 1989

"War on drugs," "End the scourge," "Take back our streets," "Just say no" -- you've heard them all before, the slogans, the war of words against drugs. What have these words wrought? Cynicism, opportunism, and despair. Cynicism among many, but particularly the press; opportunism on the part of countless politicians, including the President; and despair in our schools, our churches and our homes.

Let me start with the cynicism. It is the prevailing attitude among observers of the drug debate, for how else can it be explained that President Bush is taken vigorously to task for pledging a mission to Mars, or for proposing to rebuild the economies of eastern Europe, without providing the funding to back up his promises -- and yet he is able to stand up at his inauguration and say "this scourge will end," and then have no one "call" him when he refuses to use the tools already available to him to fight the "war on drugs." And how else can it be explained that the President is able to go to the Law Enforcement Training Institute at Glynnco, Georgia, and call for a new package of anti-crime legislation -- when, just a few months earlier, he had proposed cutting the funding for the very institute at which he spoke? How else can such hypocrisy go unnoticed, especially when it is not an isolated incident, but part of a continuing pattern?

Such has been the track record of the Bush administration from the beginning when it comes to waging its "war on crime and drugs." For example, President Bush came to my state and called for longer sentences for drug dealers. But, Mr. President, Congress passed a law in 1984 that took away judges' discretion to shorten prison terms for drug dealers. Mr. President, we don't need a new law -- we have it already.

Mr. President, you've spoken at length about the need for a death penalty for drug dealers, minimum prison terms for weapons offenders, preventive detention for persons arrested with drugs. But Mr. President, we already passed such laws -- in 1984, 1986, and again in 1988. You don't need new laws to do these things; you already have them already.

??
what
is
answerNot
Right!!

Mr. President, we've passed 208 new, tough anti-crime laws in the past five years. If you want more, I am sure the Congress will oblige. But before we do, it's time to take a look at what you could have to fight you "war on drugs," but haven't bothered to ask for. In 1988, Congress passed a sweeping anti-drug bill. But in 1989, Mr. President, you showed no interest in using that law to fight crime and drugs in this country. You failed to put in your budget the money needed to make these tough laws work.

Let me be specific. Here's what we included in that drug bill that the President never put in his budget: more than 700 new DEA agents, who could have busted almost 2,500 drug king-pins in a year's time; 1,700 new Coast Guard officers, our first line of defense against imported drug supplies; almost 600 other federal law-enforcement officers, including 200 FBI agents, 50 marshals, 100 new ATF agents, and more; enough money to start 1,000 new state and local police task forces, which could have shut down open-air drug markets all over the country; treatment beds for almost a quarter million addicts who now are waiting for treatment, people who want to kick the habit, but are told they have to wait months for openings in programs to help them, months during which they rob and mug to pay for the craving they can not or will not curtail. We could have helped 230,000 such people this year, but President bush would not pay for it.

The list of items President Bush "just said no" to goes on and on: 125 drug education projects, 60 anti-gang task forces, 2,000 new prison beds, and much more. With all these items, the President not only refused to pay for them, but actually threatened a veto if Congress tried to force them on him.

Mr. President, you say you want a "war on drugs," but if that's what you want, we need another D-Day. Instead, you're giving us another Vietnam: a limited war, fought on the cheap, financed on the sly, with no clear objectives, and ultimately destined for stalemate and human tragedy. That's not fair to the victims of crime, or to the victims of drugs, or those we ask to protect all of us from becoming victims -- because what we have now is a half-million police officers trying to stop 36 million crimes; each prosecutor handling 60 cases at one time; court calendars backed up, with a year's delay in sending some criminals to jail; and treatment centers telling some addicts that they must wait up to two years for help. And what has President Bush offered in response to this crisis? Only cardboard cops, cut-out courts, paper prosecutors, pretend prisons, and tenuous treatment.

The results of the President's failure to match his opportunistic rhetoric with anything more than hollow promises, has been despair -- the anguish and despair of families whose children have been caught in the cross-fire of the drug gangs, the despair of the school teacher unable to penetrate young minds

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sealed off by drugs rather than blossoming with ideas, the despair of the hospital worker caring for drug-addicted newborns, the despair of the police officer whose partner who lost his life to a crack trafficker back on the street only hours after they had locked him up.

This despair is real, but it doesn't have to be. Yes, we know that almost half the high-school students in America still aren't aware that cocaine is harmful, but we also know that among those who do believe it is harmful -- and that number has risen from only a third to more than half just since 1986 -- only seven percent ever try it. When the word gets out, the kids wise up. Yes, we know that 70 percent of the crimes committed in America are drug-related, and that the average heroin addict, for example, commits almost 200 crimes a year to support his habit; but we also know that crimes committed by drug users fall by 84 percent after they receive the treatment they need. Yes, we know that the murder of innocent bystanders caught in the cross-fire near drug markets has gone up 255 percent in the past two years alone -- but we also know that when intensive law-enforcement efforts succeed in closing down a drug market, violent crime in the surrounding area drops by as much as 67 percent. So there is despair in America -- and why not, there's plenty of cause for it -- but there's cause for hope, too.

It is because there is hope -- reason to believe that we can reduce the drug epidemic in America -- that we created the drug-czar post in 1988. We created the drug czar to learn what's being tried in the country that works, and what doesn't; to find out what we know about the drug problem, and what we have yet to learn; and to attempt to put an end to the bureaucratic turf battles among federal agencies that have plagued our anti-drug efforts. We also counted on the drug czar to move the drug issue beyond the realm of political profit-taking and into the sphere of genuine progress -- but in the light of what has happened in recent weeks, it appears that the Bush Administration may be more interested in partisan politics than in effective policy.

Frankly, I am concerned. According to some press accounts, it appears that our new drug czar, Dr. William Bennett, has spent more time consulting with Lee Atwater on his September drug strategy than he has spent consulting such experienced Congressional drug-policy experts as Pat Moynihan, Ted Kennedy or Jack Brooks. He's taken the time while traveling the country to take pot shots at Congress and to make fun of Congressman Rangel, while we wait and wonder what his plan will contain. I know that, to quote my friend Pat Moynihan, "It could be said that nothing is lost here save dignity," but I am concerned, so there are two things I want to do now: first, make it clear what is required of Dr. Bennett, by law; and second, make it clear what the Congress expects of any plan that is submitted -- to lay down a few markers.

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Let me start with what the drug-czar law requires Dr. Bennett to do. First, he must offer "comprehensive, research-based, long-range goals for reducing drug abuse in the United States." These goals must be visionary and ambitious -- but they must also be rooted in reality. Second, he must "include short-term, measurable objectives which the Director determines may be realistically achieved in the two-year period" following the submission of his plan. That is, he must set out some immediate targets -- some guideposts we can use to judge in the short-term if we are headed in the right direction. Third, he must "describe the balance between resources devoted to supply-reduction and demand-reduction." And let me just note, as evidence of how committed Congress is to the notion that our drug strategy should be evenly divided between demand-reduction and supply-reduction, we created two deputies for the drug czar: a deputy for supply control and one for demand control. Fourth, the drug director must "review state and local drug-control activities, to insure that the United States pursues well-coordinated and effective drug control at all levels of government." And fifth, he must offer "a complete assessment of how (his) budget proposal is intended to implement the strategy, and whether the funding levels contained in such proposal are sufficient to implement such strategy" -- in other words, if he plans to spend enough and if he plans to spend it right. This, nothing more and nothing less, is what we will be expecting from the drug director in September.

Now let us consider what Dr. Bennett should aim at in his plan -- and rather than lay out an entire strategy that I have, in fact, prepared; rather than offer a Democratic strategy to get the political jump on the Administration; rather than respond to the political challenge that has already been laid down by the Administration -- in the hope that Congress and the Administration can work together to assure the success of the new drug director, I offer nine points of what I hope will be our mutual understanding of how Dr. Bennett's plan should fulfill the purposes of the law. These points should not be taken as an attempt to hold the Director to the requirements of my own anti-drug program, but as statements of principle, all derived from a national consensus, that I believe his plan must in some way reflect. If we can maintain that kind of principled agreement, if we can avoid proposals that seek only partisan advantage, and if Dr. Bennett's plan offers a realistic prospect of putting those principles into practice, I believe he can count on the support of the Congress, and that we can, at long last, offer the American people hope that illegal drugs can, indeed, be brought under control.

I will offer some specific ideas as examples to illustrate how each of these broad goals might be effectively approached, but it is achieving the general thrust of those principles that most concerns me today. These ideas, as well as 50 more such ideas I have passed out to you today, are only possibilities, are only some of the options that show that the principles I am setting out are attainable, pragmatic, and realistic. Dr. Bennett should consider these ideas, and many more like them, because it is critical that he not shy away from setting specific, concrete and significant goals in his proposal.

So let me begin my challenge to Dr. Bennett with this fundamental premise: first, we must pay for what we promise. I have already spoken in some detail on this point, and I won't belabor it, other than to say that it's time to pay off on our promises to fight drugs, and to keep paying until the job is done. That means, immediately, finding the full \$1.8 billion we need to pay for last year's drug bill. And that means, so there is no doubt about what I am saying, even raising taxes, if need be, to pay for these anti-drug programs. Now, I understand that what I just said runs directly opposite to the politics of "read my lips" which have taken hold in Washington, but I believe that the people are ahead of the politicians on this score. That's why I went to the Senate floor a few months ago and proposed an amendment to raise excise taxes a penny a beer, five cents on a bottle of wine, and two cents per pack of cigarettes -- to raise the money needed to pay for the 1988 drug bill. Mr. President, we also read your lips when you said, "this scourge will end." Now it is time for you and the Congress to read the lips of the American people when they say, "Give us back our neighborhoods;" "Allow us to walk our streets;" "Give our children safe schools to learn in" -- "Help us, Mr. President!"

And we shouldn't kid ourselves. The \$1.8 billion needed to pay for last year's drug bill is just a down-payment. It took more than a year for things to get this bad, and it will take more than a year for them to get better. We're going to have to make up our minds to continue funding the drug fight, fully, for as long as it takes to lift the siege of America and set our people free.

Second, we must provide drug treatment for any addict in the country who wants help. Ultimately, treatment on demand -- immediate treatment, with no waiting -- must be available for every addict who wants to kick the habit. We should make this a national commitment, with a specific plan and an iron-clad deadline for reaching this goal. I propose September 5, 1993, the fourth anniversary of Dr. Bennett's strategy, as a deadline for meeting this goal that is ambitious and yet attainable.

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In the meantime, within the next 12 months, I propose a national policy of "targeted treatment on demand": treatment for any child-addict 16 or younger, or any juvenile in the justice system; and for pregnant women and the mothers of small children, who most urgently need help with their drug habits. This is not sentimentality; it is based on hard-headed facts -- almost 20 percent of the babies born at D.C. General, here in Washington, come in to this world addicted to cocaine, and anyone here who read in the Sunday Washington Post the story about six-year old "Drooney" and his addicted mother knows why getting immediate help for these women is a national imperative.

Yes, treating all pregnant women with drug problems could cost as much as \$1.5 billion a year, but it will save us \$15 billion in health-care costs for addicted babies over the first five years of their lives. We can meet this goal more quickly with one simple, though not inexpensive, proposal -- extending medicaid to cover drug treatment -- because believe it or not, in most parts of this country, most types of drug treatment are not covered by this medical "safety net." And let me say this: we don't have to wait for volunteers for drug treatment; treatment should be part of every sentence for drug abuse and drug-related crime.

Third, we must enforce our drug laws and take back our communities. It's time to take our communities back from the drug traffickers and the drug abusers, and we can do it. For example, we can declare our schools and their neighborhoods to be drug-free zones where our children can learn and play at peace, with mandatory minimum one-year prison sentences for drug offenses committed anywhere close to a school. This will not guarantee there will be no drugs at all in the schools, but it will make getting to and from school a lot safer for our kids. Congress should adopt such laws immediately, and then provide special federal funds to make them work.

We can pass special laws that empower cities and towns to brick up or tear down buildings used as "crack houses;" just get rid of them, and get rid of the destruction and death they deal out to their neighborhoods. And of course, most importantly, we must hire thousands of new cops, judges, and prosecutors to make the tough laws we pass in Washington something more than hollow threats.

Fourth, we must hold drug users and traffickers accountable for their crimes. We can send young federal and state drug offenders serving short sentences for relatively minor drug violations to "boot camps," regional programs at former military bases where young adults would serve their time under military-style discipline, work and exercise -- and receive treatment. A dozen such camps could serve the whole country, easing the burden on both state and federal prisons, and they

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could be the salvation of thousands of young people who might, for the first time in their lives, develop the personal discipline that could return them to a life free of crime and drugs. Another way to relieve the burden of drugs on state prison systems would be to establish 10 regional drug prisons, federal prisons where drug offenders would be placed in a rigorously drug-free environment and provided with thoroughgoing treatment programs.

We can earmark funds to assist states and communities in setting up "Do Drugs/Do Time" programs like the one in Phoenix, where anyone arrested with a small amount of drugs has the option of being charged with a felony or of enrolling in a treatment program, and paying for it out of their own pocket.

To help discourage even casual users, we can extend the federal forfeiture provisions, so that the automobiles of drug users are confiscated on the spot the moment they make a buy. These measures, and others like them, can make it clear that we are holding all drug users accountable for their contribution to the epidemic we have on our hands.

Fifth, we need to get better anti-drug mileage out of our criminal-justice system. We can insist that every person arrested in this country be tested for drug use; we can require drug treatment for those who test positive and impose pre-trial detention on those who fail to complete treatment. This can be done immediately in the federal courts, and should be accelerated in state and local courts with the federal assistance we should provide. The simple notion is this: we should use the leverage the criminal-justice system gives us over drug users to force everyone we arrest, convict, and jail to emerge from the system "drug-free."

Sixth, we need to continue and improve upon the close coordination between federal, state and local drug education, prevention, law-enforcement and treatment programs, backed by federal funding, training and information-sharing. It was to maintain and strengthen this all-important function that we created an associate director under the drug czar with specific responsibility for coordinating anti-drug activities at all levels of government.

Seventh, we need to engage the best and the brightest scientific minds in the country to respond to this national public-health emergency. Drug abuse is the public-health crisis in America, but our health authorities have been slow to respond to it as such. A 1983 medical journal article warned us that a crack epidemic had broken out in the Bahamas and was certain to come our way. And what did our Center for Disease Control do in response to that warning? Nothing! We need to do better; we

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need to mobilize our medical community to cope with this public-health emergency.

We should call upon the National Academy of Sciences and the National Institute of Medicine to promptly convene a national commission on medical responses to drug addiction. This blue-ribbon panel should be told to identify the most promising medical prevention, treatment and research strategies, including an intensive program to find a pharmacological "blocking agent" for crack cocaine; and we can set a deadline for their report. And while we're at it, we can require the FDA to speed approval of any medical remedy that promises more effective drug treatment. Promising research is already under way on such drugs, and if they prove to be effective and safe, they should be made available to drug users as quickly as possible.

Eighth, we must impose irresistible pressure on the international drug cartels and the nations which tolerate them. We can insist on something that Congress has urged repeatedly and fruitlessly, that both the State and Defense departments, as well as the intelligence community, recognize the drug crisis as a top priority among their responsibilities, and act upon that belated recognition. Specifically, we can direct the Secretary of State to initiate negotiations toward the formation of a multinational anti-drug strike-force, under the auspices of the United Nations and the Organisation of American States, to combat the drug traffickers wherever we find them. And we can create a new Assistant Secretary of Defense for drug operations and establish a unified drug command for the military services, including our military contribution to any multinational drug strike-force. It's time to exert our diplomatic resources and our military strength in our own defense, and we can do it.

Ninth, and finally, though again by no means exclusively, we need education and prevention programs that go beyond simple warnings and brochures. We need a fundamental change in attitudes, starting with the media and the entertainment industry. We can insist, and we should insist, that our singers and songwriters, our actors and actresses, our athletes and our coaches, become the role models in fact that they believe themselves to be and we want them to be. In our tens of millions, we invite them into our homes and our hearts, and we should be able to call on them in a time of such need. And I can tell you there is genuine interest in doing more among the major networks and entertainment leaders.

I have already spoken with the chairman of the board of CBS and the president of Paramount, and I intend to follow up soon with other leaders in the business. They are ready and willing to play a part in helping change the attitudes of our young people toward drugs, and they are talking about more than a few more public-service spots about drugs. I believe we should take

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every possible advantage of their interest, their creativity and their power to persuade. It will certainly take some bold, innovative leadership to mount an industry-wide campaign, but we can settle for nothing less.

We must continue and improve everything we are already doing in drug education, from pre-kindergarten and through high school, and we must extend anti-drug education into the community. Specifically, we can do things like fund Boys and Girls Clubs for every public-housing project in America. These clubs provide just the kind of results we want for our least-privileged children, a reduction in the frequency and severity of substance abuse, and an improvement in attendance and performance in school.

These are all things we can do, but these few examples are merely representative of the many and multifaceted initiatives we should take in our struggle with illegal drugs.

In the end, we must return to a basic truth: America does not have a drug problem, but many drug problems. What motivates a 45-year old lawyer to cruise in his BMW for a snort of cocaine is profoundly different from what lures a 13-year-old ghetto youth to crack, or from what leads an 18-year-old pregnant girl to do drugs, even though she knows she's killing the life inside her. The solutions we pursue now must be as many and as varied as the problems that we face, but we must pursue them, seriously, creatively and relentlessly, so that we can no longer say about our "war on drugs" what G.K. Chesterton said about the Christian ideal: not that it has been tried and found wanting, but that it has been found difficult and left untried.