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THE WHITE HOUSE
WASHINGTON

March 10, 1983

NOTE FOR EDWIN MEESE III
EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

We understand the Educational Savings Account bill is supposed to be ready to go up to the Hill Monday.

The issues discussed in the attached memo should be resolved ASAP.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON
March 10, 1983

FOR: EDWIN MEESE III
EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN
WILLIAM P. BARR

SUBJECT: Anti-discrimination Provisions in the
Educational Savings Account Act

The FY 84 budget and the Treasury fact sheet on the ESA legislation stated that tax benefits would be permitted only if payments were made to non-discriminatory schools. We seem to be committed to include some form of anti-discrimination provision in the bill.

Justice and Treasury disagree over the anti-discrimination provision. Justice wants to spell out a judicial procedure for determining whether a school discriminates. Treasury believes that this would make discrimination more of an issue than it otherwise would be and prompt Finance Committee liberals to play the same game they did on tuition tax credits, nitpicking our proposed judicial process and insisting on some additional administrative enforcement mechanism.

Treasury wants to make the anti-discrimination provision as low profile as possible.

- o First, they would require that non-profit schools be eligible for 501(c)(3) status. This would be coupled with language in the "technical explanation" of the bill stating that, "Litigation now before the Supreme Court will determine whether continued IRS enforcement of this nondiscrimination policy will require explicit legislation. If legislation is found to be necessary, the Administration has already made it clear that it will propose a statutory solution." We did the same thing for the tuition tax credit bill, and if a low profile approach is adopted, Justice is willing to go along with this part of Treasury's proposal.
- o The problem arises with respect to for-profit vocational and proprietary schools. Treasury would require these schools to meet the same civil rights requirements as institutions receiving federal financial assistance. Justice is opposed to treating the small tax deductions for individuals under this bill as if they were federal assistance to schools, subjecting the schools to the attendant regulatory burdens.

We recommend a meeting with Buck Chapoton and Brad Reynolds to resolve these differences.

Attached are the relevant portions of the draft bill and the technical explanation.

EDUCATION SAVINGS ACCOUNTS

Technical Explanation

Summary of the Proposal

Parents will be permitted to make nondeductible contributions to tax-exempt Education Savings Accounts to pay for the post-secondary education of their children. The maximum amount that may be contributed per child in any year is \$1,000 reduced by 5 cents for each dollar by which the adjusted gross income of the parents exceeds \$40,000.

Detailed Description

Under the proposal, an individual with a dependent under the age of 18 may set up an Education Savings Account to fund the post-secondary education costs of the dependent. Such accounts may be established with the same financial institutions with which IRAs may be established under current law. The creator of the account retains complete control over the account and may withdraw the account at any time, subject to the taxes and penalties described below. The account will be exempt from taxation.

The owner of the account may make nondeductible contributions for each year in which the dependent is under 18 years of age. The maximum annual contribution with respect to a dependent is \$1,000 reduced by 5 cents for each dollar by which the adjusted gross income of the owner (including the income of any spouse) exceeds \$40,000, so that no contribution may be made in a year in which the adjusted gross income of the owner (and any spouse) exceeds \$60,000. Contributions for a year may be made until the time the tax return for that year is due. Only cash contributions are permitted.

Income earned by the account is not subject to tax as earned. A withdrawal from an account is treated as a withdrawal of a pro-rata share of the income and principal in the account and the income withdrawn is taxable unless used to pay eligible education expenses of the dependent. Eligible education expenses generally are tuition and room and board with respect to the full-time enrollment of the dependent in a post-secondary program leading to a degree or certification. As to part-time students in such a program, only withdrawals for tuition qualify.

In order for the costs of education to qualify as eligible education expenses, the school the student attends, with one exception, must be a tax-exempt organization described in section

501(c)(3). In the past, the IRS has interpreted section 501(c)(3) to exclude from tax-exempt status schools that discriminate on the basis of race. Litigation now before the Supreme Court will determine whether continued IRS enforcement of this nondiscrimination policy will require explicit legislation. If legislation is found to be necessary, the Administration has already made it clear that it will propose a statutory solution.

The single exception to the requirement of section 501(c)(3) status is for certain vocational and similar for-profit educational institutions that generally are not tax-exempt. In order for the costs associated with attending such an institution to qualify, the institution must have been determined by the Secretary of Education not to follow a racially discriminatory policy.

Withdrawals will be reported to the IRS by the financial institution with which the account is kept. The educational institution the child attends will certify the exact amount of eligible expenses paid by the account owner to the institution and its estimate of other eligible expenses. The amount by which the withdrawals exceed the certified expenses will be treated as withdrawals that are not used to pay eligible education expenses.

The transfer of an account generally results in the owner being taxed on the retained earnings in the account and the account losing its tax-exempt status. An exemption is provided for certain transfers pursuant to the divorce or death of the owner where the account continues to be maintained as an Education Savings Account for the same child. Accounts may be rolled over tax free to a different institution.

An Education Savings Account loses its tax-exempt status and the owner is taxed on all retained earnings in the year in which the dependent becomes 26 years of age. Pledging an account or engaging in a prohibited transaction with an account terminates the tax-exempt status of the account and results in the owner being taxed on the retained earnings in the account.

Education Savings Accounts are subject to many of the same restrictions as IRAs. Accounts may be invested only in the same types of assets in which IRAs may be invested. An excise tax is imposed on excess contributions and certain transactions between the account and the owner or related persons.

Taxable withdrawals and terminations are subject to a penalty in most cases. Exceptions to the penalty rule apply in the case of death of the dependent on whose behalf the savings are made, death of the account owner, or use of funds for certain medical expenses of the dependent.

such year, to the extent attributable to the full-time enrollment of such named child in one or more terms of qualified education during such year; otherwise,

"(B) Zero.

"(6) Qualified education.--The term 'qualified education' means an undergraduate program leading to a degree or certification at a qualified educational institution.

"(7) Qualified educational institution.--The term 'qualified educational institution' means--

"(A) A vocational school (within the meaning of section 435(c) of the Higher Education Act of 1965) or a proprietary institution of higher education (within the meaning of section 481(b) of such Act) that has been determined by the Secretary of Education to be eligible to participate in the student financial aid programs of title IV of such Act, and

"(B) any other eligible institution (within the meaning of section 435(a) of such Act) or institution of higher education (within the meaning of section 481(a)(1) of such Act) that is exempt from taxation under section 501(a) as an organization described in section 501 (c) (3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply.

"(8) Qualified dependent.--The term 'qualified

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 10, 1983

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Medicare/Medicaid as Federal Financial Assistance

Bob Carleson explained in his memorandum of March 7 (attached) the need to resolve whether Medicare and Medicaid constitutes federal financial assistance to hospitals for purposes of our new anti-infanticide regulation. The new regulation goes into effect March 22, and we need to resolve the issue before that date.

This issue implicates not only the anti-infanticide regulation, but every federal civil rights scheme that is triggered by receipt of federal financial assistance: race discrimination, sex discrimination, handicap discrimination. Any change in the scope of coverage of this panoply of regulations is obviously fraught with controversy.

Arguments that Medicare and Medicaid should NOT be considered federal financial assistance to hospitals:

- o The benefits are for individuals just like student grants and loans.
- o Federal control should follow federal payments to institutions, not payments to individuals who choose to purchase services from those institutions.

Arguments that Medicare and Medicaid SHOULD be considered federal financial assistance:

- o This has been the consistent interpretation of HHS since the inception of the Medicare/Medicaid program.
- o It is also the official position of DOJ as reflected in a brief filed last June. (Brad Reynolds and others at Justice, however, would like to change this position.)
- o We could just as easily be attacked for trying to deregulate hospitals from civil rights laws as for trying to deregulate tax-exempt schools in the Bob Jones case.

We face a potential controversy if HHS decides to save a handicapped infant or to penalize a hospital under the new anti-infanticide regulation and DOJ refuses to act on grounds that Medicare/Medicaid reimbursement is not federal financial assistance. Brad Reynolds says privately that he will not

prosecute in such a case, because he does not believe that Medicare/Medicaid constitutes federal assistance.

Further, Brad says he will not consider a hospital to be covered by the anti-infanticide regulation unless the federal assistance goes to the pediatrics or nursery ward. In the past, HHS and DOJ have considered the entire hospital to be federally assisted if any portion of it receives federal aid. It is not clear whether a hospital could be divided into separate wards for purposes of applying civil rights laws.

Recommendation

- o Ask Attorney General not to change the official DOJ position on this issue (that Medicare/Medicaid is federal assistance to the entire hospital) until a high-level White House decision can be made on the issue in consultation with other departments.
- o Set up a small working group, including Brad Reynolds plus representatives of HHS, Education, Vice President's Task Force, and OPD, to analyze possible course of action on this issue and to make recommendations.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 11, 1983

FOR: EDWIN L. HARPER

FROM: WILLIAM P. BARR
STEPHEN H. GALEBACH

SUBJECT: Meeting with Conservative Groups on Crime Bill

Attached is a copy of an earlier memo we sent you, the first three pages of which provide an overview of the bill.

We understand that the overarching concern of the conservative groups is that the Administration not push for a comprehensive criminal code reform bill, but rather pursue a bill like S.2572. In this regard, we are doing exactly what they want us to do, and they should be quite pleased.

They may ask for a promise that the Administration will not push a criminal code reform bill. This seems to be something we can give them.

Beyond this, they may have some minor points concerning some of the titles in our proposed bill. For example, they have told us that they would like to see the sentencing reform part of the bill include the so-called Denton and Helms Amendments that were added in the Senate. We have included these in the bill, and they should be pleased about it.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 11, 1983

FOR: EDWIN MEESE III
EDWIN L. HARPER

FROM: WILLIAM P. BARR

SUBJECT: Crime Bill (More on Labor's Views)

This is to explain Secretary Donovan's concerns over the racketeering provisions (section 1101) of the crime bill.

Last Congress we proposed legislation strengthening racketeering laws as they apply to unions, one provision of which would have expanded the list of offenses which serve as a bar to union offices under the Labor Management Reporting and Disclosure Act.

In order to get Lane Kirkland's support, Senator Nunn softened the Administration's proposal. As part of this compromise, the expanded list of offenses was dropped. We did not formally endorse this, though we went along with it tacitly. This compromise version was passed by the Senate. It was killed in the House by Phil Burton.

The racketeering provisions in the new crime bill being proposed by Justice are a hybrid between our original proposal in the 97th Congress and Senator Nunn's compromise. While our new proposal adopts some of the provisions in Senator Nunn's compromise, it retains the expanded list of offenses that we originally proposed.

In the meantime, Labor Department says, Kirkland has caught more grief from his Executive Council for supporting the Nunn compromise than probably any other issue since he took office. Labor believes that Kirkland is likely to use the expanded list of offenses as reason to withdraw support from the Nunn compromise. This is particularly likely, Labor believes, given the fact that the crime bill now includes additional provisions that Kirkland may attack as "anti-labor".

In addition, although the Administration never formally endorsed the Nunn compromise, Labor thinks that Senator Nunn would view our stiffer version of the racketeering provision as going back on a tacit compromise.

All of this is tangential, though related, to Labor's main point -- namely, that the labor provisions (taken in aggregate) have no chance of being passed by Congress and will only serve to arouse labor opposition to the bill.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON
March 11, 1983

FOR: EDWIN MEESE III
EDWIN L. HARPER
DON MORAN

FROM: HOWARD SMOLKIN
WILLIAM P. BARR

SUBJECT: Crime Bill

There remain three interdepartmental disputes on the crime bill.

I. Labor Provisions

Department of Labor is concerned over the following elements of Title XI:

- o Expansion of the list of offenses that serve as a basis for debarment from union office under the Labor Management Reporting and disclosure Act;
- o Extension of the Taft-Hartley bribery provisions to unions not previously covered by that Act: airlines, railroads, public employees;
- o Amendment of the Hobbs Act to make violence in connection with labor disputes a federal offense.

Labor agrees that these are substantively unexceptionable but believes that they are politically ill advised. Labor believes that they have no chance of success in the Congress and will do nothing more than provoke vociferous labor attacks on the bill as an "anti-union bill".

In addition, Labor wants to insert in the bill a Senate-passed provision that would give the department IG agents jurisdiction over labor racketeering offenses. Justice and OMB strongly oppose this and testified against it less than a month ago.

II. Gambling on Indian Reservations

U.S. Attorneys would like legislation subjecting gambling on Indian reservations to state laws so that these reservations do not become havens for organized crime. A month ago, the Interior Department set up a task force at Justice's request to develop a solution to the gambling problem. On some reservations, bingo is one of the only ways tribes can raise money for economic

development. Interior would like to exclude this provision from the bill and defer the issue until the task force has had a chance to study it.

III. Forfeiture

Justice originally wanted a \$250,000 informant award cap. OMB wanted the \$50,000 cap that was originally proposed by the Administration last year. They have compromised on the \$150,000 cap.

There are two outstanding issues:

- o Justice and Treasury want a provision authorizing the AG or the Customs Commissioner to discontinue forfeiture proceedings and to permit state or local governments to take possession of seized property through state forfeiture proceedings. OMB believes that this provision is too broad because it is inconsistent with, and may undermine, our federal property disposition program. OMB would go along with this provision if it were limited to state and local agencies that actually participated in the seizure.
- o Justice and Treasury want the same provision that was passed by the Senate last year that would establish special funds to which proceeds from forfeited assets would be deposited. These funds could be used to pay informants and to maintain seized assets, and for other purposes. OMB, on the other hand, wants to go with the provision originally proposed last year by the Administration providing that 25% of the amount realized from the disposition of seized property could be set aside by the Department to pay informant awards, while the remaining 75% would be returned to the Treasury.

There are two issues in the crime bill which require political review:

I. Justice Assistance

As indicated above, the provisions in the draft bill conform generally to the negotiated understanding reached last fall with members from both houses. The draft does a couple of things which, as far as I know, have not been previously discussed: (1) in collapsing the various advisory committees into one, it grandfathers 50% of the old membership; (2) it allows the committee members (rather than the President) to designate the Chairman. White House Counsel's office is concerned that these provisions are inappropriate derogations of the President's appointment powers.

II. Extraterritoriality

Part M of Title XIV would make certain acts that are unlawful in the United States unlawful if committed overseas by military personnel or federal employees. The CIA has been harrassed in the past through lawsuits by leftist organizations claiming, inter alia, that U.S. criminal laws have extraterritorial effect and thus proscribe various intelligence activities. The CIA therefore wants to make it clear that statutes on larceny, receiving stolen property, and breaking and entering do not prohibit overseas intelligence collection activities. The agency has proposed, and Justice has accepted, an additional section in this Title stating that it shall not be construed to prohibit defense and intelligence activities that are performed in accordance with the Constitution, federal statutes, and Executive Orders.

Such an explicit provision will be a red flag and may encourage a spate of media stories that we are licensing improper intelligence activities overseas. Liberals may seize upon this as an excuse for opposing the bill.

THE WHITE HOUSE

SCHEDULE PROPOSAL

WASHINGTON

MARCH 14, 1983

TO: FRED RYAN, DIRECTOR
PRESIDENTIAL APPOINTMENTS AND SCHEDULING

FROM: EDWIN L. HARPER

REQUEST: Meeting with Rossow family and their 12 adopted handicapped children from Ellington, Connecticut.

PURPOSE: To give a public manifestation of the President's compassion toward handicapped children and to emphasize his commitment to protecting them against infanticide.

BACKGROUND: The Rossow family has adopted 12 handicapped children, many of them severely handicapped. The family was featured in a recent Boston TV investigative report as an ideal model of the proper alternative to allowing handicapped infants to die in hospitals. The Rossows are an inspiration to both pro-handicap and pro-life supporters of the President.

PREVIOUS PARTICIPATION: Shortly after the President viewed the TV investigative report on infanticide last week, he phoned the Rossow family and talked with the parents and each of the children. He was reportedly deeply moved and would welcome the opportunity to see them when they are in D.C.

DATE/TIME: April 6, 1983, for 15 minutes. (Rossow family will be in town that date to testify before the Senate Subcommittee on the Family.) Alternative: April 5, p.m., or April 7, a.m.

LOCATION: Roosevelt Room

PARTICIPANTS: Rossow family, plus appropriate persons from Administration.

OUTLINE OF EVENTS: The President receives the family in the Roosevelt Room and talks with the children.

REMARKS REQUIRED: Brief remarks to be supplied.

MEDIA COVERAGE: White House photographer.

RECOMMENDED BY: EDWIN L. HARPER

OPPOSED BY:

PROJECT OFFICER: ROBERT B. CARLESON

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 15, 1983

FOR: EDWIN L. HARPER

FROM: ROBERT B. CARLESON

SUBJECT: Infanticide and the President's Commission on Medical Ethics

Members of the President's Commission on Medical Ethics have been publicly attacking the Administration's new anti-infanticide regulation. These individuals have gotten prominent play in NBC Evening News and the Sunday New York Times.

This media coverage has caused damage and embarrassment; so far, it represents the only useful ammunition available to the other side.

We have a good opportunity to counteract the Commission's statements. Senator Kennedy is pressing Senator Hatch to hold a Committee vote to extend the Commission beyond its March 31, 1983 expiration date.

Lobbyists friendly to the Administration report that we could defeat the resolution in Committee if we had the support of Senators Quayle, Hawkins, and either Eagleton or Weicker. If we lost in Committee, we could still let the Commission expire simply by not bringing the Kennedy bill to a floor vote before the end of the month.

We can do even better, however, if a friendly Senator would introduce an amendment to Kennedy's measure, to restate the federal policy affirming the value of all human beings without regard to handicap.

The Commission's statutory mandate specifically requires it to "tak[e] into account the essential equality of all human beings, born and unborn." The Commission's draft studies on genetic screening and withholding of life-sustaining treatment directly violate this fundamental principle.

Recommendation

Attached is language for amending Senator Kennedy's measure. We should see if a friendly Republican Senator, perhaps Nickles, would like to introduce it in Committee or on the floor.

Amendment to Bill Extending Bioethics Commission

Add: "Provided that the Commission shall reconsider the subjects of genetic screening and withholding of life-sustaining treatment, in light of 42 U.S.C. Section 300v-1(a)(1)(C) before issuing any reports related to such matters, and that the Commission shall print, on the first page of printing in any report related to such matters, the following statement:

STATEMENT OF PUBLIC POLICY WITH RESPECT TO VALUE OF HUMAN LIFE

It is the policy of the United States to affirm the equal worth of all human beings. Any denial of the right to life, or the statutory protection of life, due to handicap or anticipated mental or physical impairment violates this policy. Any views expressed herein which are contrary to the above policy are to be understood as the individual views of the members of this Commission; they do not reflect the policy of the Congress or the President of the United States.

Chapter I. Appropriations to fund the work of the Commission, although authorized, have not been sought or received, but entities within the Department of Health, Education and Welfare have authority and funds which may be available to carry on activities identical to those to be undertaken by the Commission. Therefore, in order to permit these entities to support the conduct of those activities by the Commission, and under the authority vested in me as President by the Constitution of the United States, it is ordered:

1-101. There is established the President's Special Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The Special Commission established by this Order shall be constituted in accordance with and subject to the provisions of Title III of Public Law 95-622 [this subchapter], except that it shall receive financial support, to the extent permitted by law and subject to the availability of funds, from the Department of Health, Education and Welfare. The Administrator of General Services shall provide administrative support services to the Special Commission on a reimbursable basis.

1-102. The Special Commission established by this Order shall terminate upon enactment and availability of appropriations for the Commission established by Public Law 95-622 [this subchapter], and in any event, unless extended, no later than two years from the date of this Order. No funds transferred by the Department of Health, Education and Welfare pursuant to this Order shall be expended by either Commission following termination of the Special Commission.

JIMMY CARTER.

§ 300v-1. Duties of Commission

(a) Studies and investigations; priority and order; report to President and Congress

(1) The Commission shall undertake studies of the ethical and legal implications of—

(A) the requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

(B) the matter of defining death, including the advisability of developing a uniform definition of death;

(C) voluntary testing, counseling, and information and education programs with respect to genetic diseases and conditions, taking into account the essential equality of all human beings, born and unborn;

(D) the differences in the availability of health services as determined by the income or residence of the persons receiving the services;

(E) current procedures and mechanisms designed (i) to safeguard the privacy of human subjects of behavioral and biomedical research, (ii) to ensure the confidentiality of individually identifiable patient records, and (iii) to ensure appropriate access of patients to information contained in such records, and

(F) such other matters relating to medicine or biomedical or behavioral research as the President may designate for study by the Commission.

The Commission shall determine the priority and order of the studies required under this paragraph.

(2) The Commission may undertake an investigation or study of any other appropriate

matter which relates to medicine or biomedical or behavioral research (including the protection of human subjects of biomedical or behavioral research) and which is consistent with the purposes of this subchapter on its own initiative or at the request of the head of a Federal agency.

(3) In order to avoid duplication of effort, the Commission may, in lieu of, or as part of, any study or investigation required or otherwise conducted under this subsection, use a study or investigation conducted by another entity if the Commission sets forth its reasons for such use.

(4) Upon the completion of each investigation or study undertaken by the Commission under this subsection (including a study or investigation which merely uses another study or investigation), it shall report its findings (including any recommendations for legislation or administrative action) to the President and the Congress and to each Federal agency to which a recommendation in the report applies.

(b) Recommendations to agencies; subsequent administrative requirements

(1) Within 60 days of the date a Federal agency receives a recommendation from the Commission that the agency take any action with respect to its rules, policies, guidelines, or regulations, the agency shall publish such recommendation in the Federal Register and shall provide opportunity for interested persons to submit written data, views, and arguments with respect to adoption of the recommendation.

(2) Within the 180-day period beginning on the date of such publication, the agency shall determine whether the action proposed by such recommendation is appropriate, and, to the extent that it determines that—

(A) such action is not appropriate, the agency shall, within such time period, provide the Commission with, and publish in the Federal Register, a notice of such determination (including an adequate statement of the reasons for the determination), or

(B) such action is appropriate, the agency shall undertake such action as expeditiously as feasible and shall notify the Commission of the determination and the action undertaken.

(c) Report on protection of human subjects; scope; submission to President, etc.

The Commission shall biennially report to the President, the Congress, and appropriate Federal agencies on the protection of human subjects of biomedical and behavioral research. Each such report shall include a review of the adequacy and uniformity (1) of the rules, policies, guidelines, and regulations of all Federal agencies regarding the protection of human subjects of biomedical or behavioral research which such agencies conduct or support, and (2) of the implementation of such rules, policies, guidelines, and regulations by such agencies, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

(d) Annual report; scope; submission to President, etc.

Not later than December 15 of each year (beginning with 1979) the Commission shall report

¹So in original. Probably should be "contained".

first-class visit all the seats and heated limousines and restaurants. And the expenses paid for it all. A stop on their way at the Mocone, the keystone of the city, it was here that the team won or lose the game. The unusual, half-buried in the slain. The team has enjoyed increased popularity since Dec. 2, 1941. The team for the site competition appeared to be all, which is 825 feet long, was suitable for sessions crowded.

San Francisco, a relatively small city of 625,000, has a police force of 1,971 sworn officers plus 293 traffic control personnel. "A huge security force is not required in our view," said Police Chief Cornelius Murphy, adding that he would commit 1,000 officers to convention security. He said the hall, because it is mostly beneath ground, presented fewer security problems.

"Demonstrations are not something new to San Francisco," Chief Murphy said. "Times have changed. People have changed. There is no quarrel with the Democratic Party."

Chief Murphy cited the smooth handling of the 1968 convention, when the Democrats met with fewer than 5,000 police officers available for duty.

around for almost two weeks.

Infant Care Rule Challenged

WASHINGTON, March 12 (AP) — A Presidential advisory panel is challenging as inappropriate the Reagan Administration's regulations that could lead to prosecution of anyone who denies food or care to handicapped infants.

The President's Commission on the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will issue a report later this month saying government or legal intervention should be avoided in making decisions on the care of the seriously ill

or dying, regardless of age.

"A blanket rule or regulation is not the appropriate way to deal with the problem," Andrew Burness, a spokesman for the commission, said.

The commission's view contrasts with regulations published in the Federal Register on Monday.

"Our view is, physicians dealing with parents in conjunction with clergymen and others close to the situation are more equipped to come to intelligent, reasoned decisions than a single Federal regulation," Mr. Burness said.

defendant was reported to have tried to buy a plane ticket out of the country.

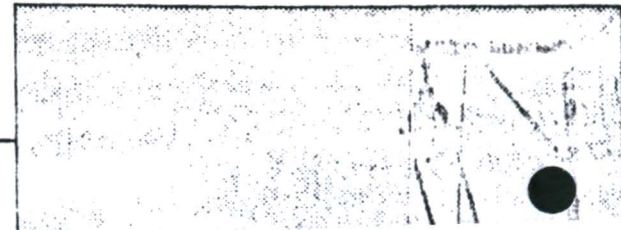
A fourth man charged in the case remained at large. All four were originally released on \$11,000 bail.

In District Court Friday, bail for Daniel G. Silvia, 26 years old, of New Bedford, was raised to \$200,000 double surety, which means he must post \$40,000 to be released. Bail for the others was increased to \$50,000 surety each. The increases were reviewed and upheld by Superior Court Judge James D. McDaniel Jr.

Mr. Silvia was in jail along with John Cordeiro, 23, of New Bedford, and Joseph Vieira, 26, of Pomfret, Conn. The other man charged in the case is Victor Raposo, 22, of New Bedford.

District Attorney Ronald A. Pina said Mr. Silvia had gone to a travel agency and tried to buy a plane ticket to the Portuguese Azores.

Men Face an Enemy They Can't See



MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 15, 1983

FOR: EDWIN L. HARPER
FROM: STEPHEN H. GALEBACH *SG*
SUBJECT: American Life Lobby Letter
Re HHS Infanticide Investigation

You asked for a copy of the HHS response to Gary Curran's letter inquiring about HHS infanticide investigations. The HHS Office for Civil Rights has taken the following actions to reply to Curran's letter:

- o Week-long delay to get opinion of counsel on what information cannot be publicly disclosed about the investigations.
- o Letter of March 2 from OCR Deputy Director Nathan Dick to Curran acknowledging his request for information (copy attached).
- o Letter of March 4 from Curran to Dick, objecting to inadequacies in the March 2 letter (copy attached).
- o Letter of March 7 from Dick to Curran giving information about each of the investigations (copy attached).

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 2/21/83 ACTION/CONCURRENCE/COMMENT DUE BY: 2/25/83SUBJECT: Gary L. Curran letter re Infanticide

	ACTION	FYI		ACTION	FYI
HARPER	☐	☐	DRUG POLICY	☐	☐
PORTER	☐	☐	TURNER	☐	☐
BARR	☐	☐	D. LEONARD	☐	☐
BLED SOE	☐	☐	OFFICE OF POLICY INFORMATION		
BOGGS	☐	☐	HOPKINS	☐	☐
BRADLEY	☐	☐	PROPERTY REVIEW BOARD	☐	☐
CARLESON	☐	☐	OTHER		
DENEND	☐	☐		☐	☐
FAIRBANKS	☐	☐		☐	☐
FERRARA	☐	☐		☐	☐
✓ GALEBACH	☒	☐		☐	☐
GARFINKEL	☐	☐		☐	☐
GUNN	☐	☐		☐	☐
B. LEONARD	☐	☐		☐	☐
LI	☐	☐		☐	☐
MONTOYA	☐	☐		☐	☐
ROCK	☐	☐		☐	☐
ROPER	☐	☐		☐	☐
SMITH	☐	☐		☐	☐
✓ UHLMANN	☐	☒		☐	☐
ADMINISTRATION	☐	☐		☐	☐

REMARKS:

Steve Galebach:
I'd like a copy of the HHS response.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 21, 1983

FOR: EDWIN L. HARPER
FROM: MICHAEL M. ~~WILL~~MANN
SUBJECT: Handicapped Policy

I have taken a preliminary look at our opportunities for initiatives in the area of handicapped policy. There are a number of possible proposals that are consistent with the President's views and that could appeal to elements of the handicapped community.

As a starting point, I have examined the proposals made by David Cooney of Goodwill Industries. He presents some good ideas within the areas that most directly concern Goodwill and similar employers of the handicapped, such as creating greater incentives for sheltered workshops for the handicapped, and changing FLSA regulations to allow more integration of severely handicapped persons with other sheltered workshop employees.

The general theme of Cooney's suggestions is to increase participation of handicapped persons in the workforce. The President obviously believes in this objective, and the 1980 Republican platform endorsed it.

There are several additional Presidential themes that relate to handicapped policy: work, family, community, individual responsibility and independence. Some examples of ways to carry out these themes are:

- o The federal entitlement for children in state foster care has created a strong disincentive to adoption, especially for handicapped children in state foster homes. HHS and Congressional staffers have been considering ways to remove this disincentive.
- o Medicaid spends billions on handicapped persons in extremely costly state institutions -- we should explore ways to create incentives for lower-cost care in families or small-group living arrangements. HUD already has a program to subsidize small-scale community residences for the handicapped, and disability groups have been seeking to work with HUD on this issue.
- o All handicapped groups agree there is a need for coordination among the various overlapping or disjointed handicapped programs in the agencies. Coordination could save money by eliminating overlap, and could better implement the President's themes in this area.

In addition, the Administration's follow-through on the President's Bloomington Baby directive and the new HHS anti-infanticide regulations will be of great importance to the handicapped community. The best approach here will be to demonstrate concern for handicapped children at the same time we protect infants -- the President's phone call to the Rossow family and their 12 adopted handicapped children is an example of his natural inclination, and we can design our policy initiatives to build on this compassionate sentiment.

Since most of these issues fall within CCHR, I suggest the responsibility pass to Carleson and Sweet. Bob agrees, and we both think Sweet would be appropriate to head a working group. CCLP staff will participate in the working group, and the group will report to CCHR.

Suggested members for the working group:

- o CCLP and CCHR
- o Education
- o HHS
- o Labor
- o HUD
- o Justice
- o OMB
- o Vice President's Task Force

Approve _____

Disapprove _____

OFFICE OF POLICY DEVELOPMENT**STAFFING MEMORANDUM**

DATE: 2/24/83 ACTION/CONCURRENCE/COMMENT DUE BY: 3/10/83
SUBJECT: Handicapped Regulations

	ACTION	FYI		ACTION	FYI
HARPER	☐	☒	DRUG POLICY	☐	☐
✓ PORTER	☐	☒	TURNER	☐	☐
BARR	☐	☒	D. LEONARD	☐	☐
BLED SOE	☐	☐	OFFICE OF POLICY INFORMATION		
BOGGS	☐	☐	HOPKINS	☐	☐
BRADLEY	☐	☐	PROPERTY REVIEW BOARD	☐	☐
CARLESON	☐	☐	OTHER		
DENEND	☐	☐		☐	☐
FAIRBANKS	☐	☐		☐	☐
FERRARA	☐	☐		☐	☐
GALEBACH	☐	☐		☐	☐
GARFINKEL	☐	☐		☐	☐
GUNN	☐	☐		☐	☐
B. LEONARD	☐	☐		☐	☐
LI	☐	☐		☐	☐
MONTOYA	☐	☐		☐	☐
ROCK	☐	☐		☐	☐
ROPER	☐	☐		☐	☐
SMITH	☐	☐		☐	☐
✓ UHLMANN	☒	☐		☐	☐
ADMINISTRATION	☐	☐		☐	☐

REMARKS:

THE WHITE HOUSE

WASHINGTON

February 17, 1983

MEMORANDUM FOR MICHAEL M. UHLMANN

FROM: EDWIN L. HARPER

SUBJECT: Handicapped Regulations

It may be that there are opportunities for us with respect to the handicapped where we could get some pluses from the handicapped community and do the right thing at the same time. In the meeting with representatives of handicapped groups on February 16, they indicated that there were several unnecessary regulations which in fact created negative incentives for the handicapped to work.

I would like you to take lead responsibility in OPD for taking a look at these regulations and seeing if we can make some improvements. I expect we will be having some requests from representatives of handicapped groups to meet with them on these subjects.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 21, 1983

FOR: EDWIN L. HARPER

FROM: ROBERT B. CARLESON *RB*
MICHAEL M. UHLMANN *MM*

SUBJECT: New Working Group on Children

Our package on the "52% solution" included the setting up of a working group on policy toward children, in addition to the child care credit and the enforcement of child support. Since issues affecting children come largely within CCHR as well as CCLP, we think a joint working group is the best way to approach the task.

Issues to be addressed by the working group include:

- o Recognizing the needs for support of children from broken families.
- o Accommodating the needs of families to provide for raising and educating children.
- o Family planning program.
- o Child abuse, especially toward handicapped infants.
- o Foster care and adoption.
- o Diminishing the federally created incentives for nonfamily, institutional care for handicapped children.
- o Interstate kidnapping of children for sexual and commercial exploitation.

Members of working group:

- o CCLP and CCHR representatives
- o HHS
- o DOJ
- o Education
- o HUD

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 23, 1983

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Article for the President to Publish in Human Life Review

We have a good draft article for the President, which was prepared with help from Speechwriting.

Human Life Review has been holding the presses in hopes of getting the articles for their Spring 1983 issue.

Quick publication would be a big plus for the President. The Catholic Bishops will issue their pastoral letter the 1st of May, and they will try to make pro-life and nuclear freeze a package. HLR promises to have the article out before the pastoral letter, to frame the pro-life issue in our terms rather than the political opposition's.

I have included footnotes for reference purposes, but I suggest they be deleted for publication.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 24, 1983

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Showing Appreciation to Our Biggest Supporter
on Law of the Sea

Yesterday the President called Bob Keating to offer him the Ambassadorship to The Republic of Madagascar. The President thanked Bob for his outstanding work on behalf of our position against the Law of the Sea Treaty.

Bob would like to be sworn in by Ed Meese, if that is possible. I think that would be highly appropriate, since Ed took such a firm stance on this issue. The alternative for Bob is to be sworn in at the State Department.

Could you ask Ed if he would like to do the honors?

New Handicapped Infants Regulation Goes Into Effect

The new HHS regulation to protect handicapped infants went into effect last Tuesday. It has been widely hailed by handicapped groups as well as prolife groups. The largest handicapped group, Association of Retarded Citizens, held a press conference at their national convention last week, to praise the rule and call attention to the widespread denial of care to retarded infants.

HHS has already sent out the notices to be posted by hospitals, and the hotline system is now in operation. HHS is ready to move quickly, enlisting help from state child abuse authorities as well as HHS investigators and medical consultants, to stop any cases of starvation or other clear-cut denial of needed care.

Some groups of doctors and hospitals have criticized the regulation, saying it brings "Big Brother into the nursery" and seeks to dictate medical judgments.

This is unfair criticism. The cases HHS is concerned about are not judgment calls. Starvation is never justified. Denial of care simply because a child has Down's Syndrome or other mental impairment is against the law. It is not a "medical judgment" when a doctor decides that retarded children don't have lives worth living.

Nevertheless, the American Academy of Pediatrics has challenged the rule in court, and our Commission on Medical Ethics has spoken against federal enforcement of laws to protect handicapped newborns. The Academy's request for emergency judicial relief to block the regulation from going into effect was denied by Judge Gesell, who has now set a hearing on the merits of the regulation for April 8.

At the start of the case, Judge Gesell had an openly hostile attitude toward the regulation. But after testimony from Surgeon General Koop, Gesell asked to see the "Death in the Nursery" videotape. The next day he ruled in our favor on the motion to block implementation of the rule.

Our key task now is one of communications. As people learn about the starvation cases in American hospitals, and the many doctors who admit giving inferior care to Down's Syndrome infants, they will see the need for the regulation. But the national media have so far refused to discuss the Boston "Death in the Nursery" investigative report.

As lead spokesman on this issue, Dr. Koop has been explaining that the regulation will protect the life to which each handicapped individual is entitled, not cause painful prolongation of death. Our communications efforts on this issue present an excellent opportunity to stress the intrinsic value of all human life.