MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 6, 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: U.N. $20 Million on LOS

Funding for the LOS Seabed Authority will be provided out of the U.N. budget, of which the U.S. pays 25%.

On December 3, we sought an amendment in the U.N. which would have required funding of the Seabed Authority by LOS signatories only. We lost the vote.

Our only recourse now is to withhold a pro rata amount from our U.N. contribution. Such a move will be supported by a few of the bureaus in the State Department, but undoubtedly will be opposed by the international organization types.

I strongly recommend that we withhold part of our contribution:

- The Soviets have withheld from time to time, and in reacting to this, we have always reserved our rights to withhold part of our contribution.
- There is precedent -- we currently withhold 25% of funds given the PLO, SWAPO, and Cuba.
- By withholding funding, we make it more likely that other countries will stay out of the LOS treaty. Seabed Authority costs are likely to grow in the future, and without the U.S. and the U.K. footing the bill, other countries are not going to want to sign on to this kind of financial obligation.
- Withholding a portion of our contribution is the politically sensible thing to do. In these times of fiscal constraint, aid through international organizations is very unpopular with the public -- particularly aid to support an anti-American third world party in Montego Bay. If we do nothing to withhold the funding, we will hear a hue and cry from our friends in the Senate.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 7, 1982

FOR: JOSEPH WRIGHT

FROM: MICHAEL M. UHLMANN

SUBJECT: Depoliticizing the Grant and Contract Processes

This draft seems an excellent, fair-minded, balanced approach to ending the use of federal grants for political advocacy purposes. Some further thought should perhaps be given to lowering the "substantiality" threshold for political advocacy from the proposed 20% figure to perhaps 10 or 15%.

The summary explanation and the questions and answers concerning the proposal are absolutely first-rate. I hope we have a good communication strategy to get these points across forcefully in the public arena.

Finally, there is a typo in the spelling of "in Re Primus" on page 9.

cc: Edwin L. Harper
Ralph Bledsoe

DOCUMENT NO. 10266/ PD

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 12/1/82 **ACTION/CONCURRENCE/COMMENT DUE BY:** 12/3/82

SUBJECT: Depoliticizing the Grant and Contract Processes

	ACTION	FYI
HARPER	☐	☐
PORTER	☐	☐
BARR	☐	☐
BLEDSOE	☐	X
BOGGS	☐	☐
BRADLEY	☐	☐
CARLESON	☐	☐
DENEND	☐	☐
FAIRBANKS	☐	☐
FERRARA	☐	☐
GALEBACH	☐	☐
GARFINKEL	☐	☐
GUNN	☐	☐
B. LEONARD	☐	☐
LI	☐	☐
MONTOYA	☐	☐
ROCK	☐	☐
ROPER	☐	☐
SMITH	☐	☐
UHLMANN	X	☐
ADMINISTRATION	☐	☐

	ACTION	FYI
DRUG POLICY	☐	☐
TURNER	☐	☐
D. LEONARD	☐	☐
OFFICE OF POLICY INFORMATION		
HOPKINS	☐	☐
COBB	☐	☐
PROPERTY REVIEW BOARD	☐	☐
OTHER		
_____	☐	☐
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REMARKS:

Comments to Joe Wright by COB 12/3/82

Please return this tracking sheet with your response

Edwin L. Harper
Assistant to the President
for Policy Development
(x6515)

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 7, 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Gallup Letter on Missing and Murdered Children

Initial information indicates that this may be a private sector initiative that is worth following up on and encouraging. In the late 70s, Kenneth Wooden, an investigative reporter, became increasingly concerned about the growing problem of missing and murdered children. He established a non-profit organization, National Coalition for Children's Justice, funded by a number of large private companies. They have developed software that would be useful both in solving individual cases and in monitoring the broad scale of the problem. The system would focus principally on the abduction of children and the use of runaway children for sexual exploitation. The system would be based on data concerning missing children, murdered children, and children arrested for prostitution. A number of private companies are now contributing money so that this system can be put into effect in 23 major cities. We have contacted the Justice Department and asked them to look into the system and its possible benefits.

Steve [illegible] -

Please take a look at this and find out what you can about the program. Possible 527 solution? per ELH.

E. Rock

THE WHITE HOUSE

WASHINGTON

1 December 1982

NOTE FOR ED HARPER

FROM: KEN CRIBB

SUBJECT: Letter from Gallup regarding missing and murdered children

Attached is a copy of the letter which EM asked you to review at this afternoon's meeting.

5 NOV 1982

The Gallup Organization, Inc.

MARKETING AND ATTITUDE RESEARCH

53 Bank Street
P. O. Box 310
Princeton, New Jersey 08540
(609) 924-9600

November 16, 1982

Mr. Edwin Meese, III
Assistant to the President
Domestic Policy Staff
The White House
Washington, D. C. 20500

Dear Mr. Meese:

As Chairman of the Board of Trustees of the National Coalition for Children's Justice, it is with pride and pleasure that I invite you to a private viewing of NCCJ's newly developed computer software, a program designed for the growing national problem of missing and murdered children.

With research assistance from Ralston Purina, Westinghouse Electric, Atlantic Richfield Foundation, and the Lilly Endowment, our Executive Director, Kenneth Wooden, and Phil Hogan of Theron, Inc., have created a visionary and critically important tool to protect all children.

The demonstration will be held at Hewlett Packard Headquarters, 2 Choke Cherry Road, Rockville, Maryland, on December 2, 1982, between 10 a.m. and 12 noon. If you have any questions, please call Mr. Hogan at (616)744-4526.

Sincerely,

George Gallup, Jr.

George Gallup, Jr.
President, The Gallup Poll

GG/mw

R.S.V.P. Kenneth Wooden
National Coalition for Children's Justice
1214 Evergreen Road
Yardley, Pennsylvania 19067
(215)295-4236

Troubled adults are pushed beyond their ability to contain abnormal sex drives, leaving children as prime targets.

Kenneth Wooden, this page, below.

KENNETH WOODEN

Perils Stalk Children Beyond Atlanta

Atlanta and murdered children are now synonymous. Daily, the national media bring the viewer and reader an update on the youthful tragedy in the southern metropolis.

But Atlanta is not unique: Across the nation, children, like debris washed upon the shores of the great sexual revolution of the '70s and '80s, are being sexually assaulted, murdered, forgotten. Some are as young as six weeks, others are 3, or 8 or 15. Unfortunately, the press, law enforcement officials and the general public are unaware of just how common the problem is in every part of the country, and many children die singly and obscurely, their silent deaths lost to the American conscience.

Sometimes the murders occur in groups, like the four pre-teens in Oakland, Mich., or the three "double initial" murders in Rochester, N.Y. Periodically, they splash across the front pages in groups of 20 or 30, as in the Dean Allen Corll/John Gacy killings in Houston and Chicago, respectively – and now in Atlanta. But for the most part, they die alone in the backwoods and back bedrooms of America. Others, from wealthy, middle-class or blue collar/welfare neighborhoods, at first reported missing, are later identified by grieving parents.

4,000 Murdered

A leading pediatrician from the Medical School at Iowa University estimates that more than 4,000 children are murdered annually in the United States but that many of them go unreported. The 1979 FBI Uniform Crime Report listed 2,773 homicides involving children. Some of these murders were reported in the newspapers, others were not.

But citizens tend to set up human defenses that protect them from having to accept the violent death of a child. Nor can they easily accept the fact that the killer is rarely a stranger. Almost without exception, he or she is either family or friend, one who can quickly and sufficiently win the child's confidence, so as to carry out the crime promptly.

The death of a child from illness or accident is most sorrowful: The death of a child from sexual molestation is almost too horrible to accept. That, perhaps, is the main reason we allow the murders to continue singly or in multiples without focusing on them as a whole. It is better to forget such horror than to face the dark side of the mirror – ourselves. We know only too well the members of our own families whose human frailties have given way to some form of sexual contact with children. But because it is ugly, frightening and threatening to our own lives, we avoid looking at the mirror. We don't want to face, much less expose, our husbands, fathers, uncles, brothers, sons, nephews and close friends who have crossed through to the dark side.

In Salem, Oregon, a district attorney reinforced this "dark side of the mirror" theory when he spoke of his community. From a 1,000-page investigative document on the 1979 murder of 11-year-old Stephanie Newsom, he admitted that "... most of the information is quite sensitive and documents police inquiries into local residents who are sex offenders... There's some pretty ugly stuff in there."

In Atlanta, a top task force member told me, "I never suspected how unsafe our children are in this city – they don't have a ghost of a chance." A 1977 report in Marion County, Indiana, allowed that "there are 400 to 500 known sex offenders living in the county and repeating sex crimes daily... but there is no way we can possibly keep track of the whereabouts of all of (them)..."

Increasingly, throughout American culture, moral standards are being relaxed. Heightened sexual fervor and tempo in movies and television is commonplace and the sensual hype in advertising has become normal and expected. The Freudian message emitting from all forms of media today, wittingly or unwittingly directs its appeal to personalities whose varied sexual interests include sadomasochism and pederasty. More and more troubled and weak-willed adults are pushed beyond their ability to contain abnormal sex drives, leaving children as prime targets for molestation and murder. Senseless murder after senseless murder, the threads of untold horror for our young weave a tapestry of national disgrace.

Take a Stand

Michigan State Police Captain Robert Robertson, who headed an investigation of a series of child murders, summed up the problem:

"This is something we won't be able to handle until the public becomes aware of it and angered by it. Nothing has ever been accomplished until society took a stand – the Civil Rights Movement, the Women's Liberation Movement – somebody has to get outraged."

Who then will become outraged? Will it be the family members who grieve for their young dead? Will it be those commnities and individuals who have looked into the dark side of their mirrors? Will it be a coalition of youth groups, religious and civic organizations under a common banner? One thing is certain: The banner awaits a carrier and its first national breeze of concern.

Kenneth Wooden is author of "The Children of Jonestown" and other works.

Office of the Attorney General
Washington, D. C. 20530

May 20, 1981

Mr. Kenneth Wooden
Director
The National Coalition for
Children's Justice
240 Nassau Street
Princeton, New Jersey 08540

Dear Mr. Wooden:

Thank you for your May 6 letter with regard to the disturbing frequency with which children are victimized by violent crime.

As I communicated to you earlier, having had a number of contacts over the years with the Princeton community, I am aware of the critically important mission and the accomplishments of the National Coalition for Children's Justice, and am pleased that you have worked productively in the past with Department of Justice officials.

Please feel free to communicate to me your views on children's justice issues, and I would also invite you to raise these issues with Jeffrey Harris, Executive Director of the Attorney General's Task Force on Violent Crime, Department of Justice. It is important that the Task Force members are also made aware of your experience in this area.

Best regards.

Sincerely,

F. Henry Habicht
Special Assistant to the
Attorney General

NOTE

New Address for the National Coalition for Children's Justice:
1214 Evergreen Road
Yardley, Penna. 19067
215-295-4236

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 7, 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: USPS Monopoly

Eliminating or trimming back the monopoly of the USPS was considered by the Cabinet Council on Commerce and Trade in late '81-early '82. Attached is the decision memo that went to CCCT in February '82 and a response by Postmaster General Bolger.

At a CCCT meeting in mid-February, the issue basically sank and was put on the back burner. While most agreed that some change in the private express statutes was a good idea, no Cabinet officer was willing to take up the cudgel, particularly in the face of a vigorous defense by the Postmaster General and the postal unions. There is a working group still examining options for trimming back the USPS monopoly, with most of the thinking now going on in OMB.

Industry is presently concerned about USPS's efforts to expand their role in various modes of electronic information transfer. Rather than taking on the postal unions with a frontal assault on the private express statutes at this stage, we may want to consider focusing on the areas of the emerging issues in electronic information transfer as they relate to the USPS's role.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 10, 1982

MEMORANDUM FOR SECRETARY OF COMMERCE
SECRETARY OF STATE
SECRETARY OF THE TREASURY
ATTORNEY GENERAL
SECRETARY OF AGRICULTURE
SECRETARY OF LABOR
SECRETARY OF TRANSPORTATION
SECRETARY OF ENERGY
U.S. TRADE REPRESENTATIVE
CHAIRMAN, COUNCIL OF ECONOMIC ADVISERS
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

FROM: DENNIS KASS

SUBJECT: Private Express Statutes

Postmaster General William Bolger requested that the attached copy of a letter which he wrote to Secretary Baldrige in response to Martin Anderson's paper on the Private Express Statutes be circulated to the members of the Cabinet Council on Commerce and Trade.

THE POSTMASTER GENERAL
Washington, D.C. 20260

February 9, 1982

Dear Dennis:

Enclosed are copies of a letter which I wrote to Secretary Baldridge in response to Martin Anderson's paper on the Private Express Statutes.

I would appreciate your distributing these copies to the Cabinet Council on Commerce and Trade.

Sincerely,

William F. Bolger

Enclosures

Mr. Dennis M. Kass
Executive Secretary
Commerce and Trade Council
The White House
Washington, D.C. 20500

THE POSTMASTER GENERAL
Washington, DC 20260-0010

February 9, 1982

Dear Mac:

I appreciated having the opportunity last week to air some of my views on the Private Express Statutes at the meeting of the Cabinet Council. Because of the importance of the issue, however, I would like to give you my further thoughts.

Despite several important factual errors, the paper by Martin Anderson was well-constructed; in particular, the "Arguments Against Repeal" were cogently stated. I do not therefore intend to present further "arguments," but rather to correct the record on several points, to put the issue in context, and to give reasons why I think this discussion should proceed with great care and deliberation.

The first step, in my opinion, is to draw the issue more accurately. And the issue, I think, is not whether the Postal Service should be preserved, or in what form, but whether the people of this country would be better served if the system of letter-mail delivery was radically changed. The question therefore goes far beyond institutional reorganization. At stake, in my judgment, is the question of whether a vital cog in our economy should be replaced -- and if so, whether this can be done safely and smoothly.

I do not think such replacement is justified, nor do I think it could be accomplished without severe and harmful dislocation.

As someone who has spent more than 40 years in the postal system, I am certainly concerned about the welfare of the 670,000 employees who make this system work. But if I thought that repeal of the Statutes would lead to a "better way" for the 225 million Americans who rely on the mail, I would yield instantly. But it is my honest judgment that the people served would be harmed more than the postal employees who now serve them.

The Postal Reorganization Act of 1970 states, "The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people." The italics are mine, and the stress is there because I think this is the basic function we provide and the function that would be most at jeopardy should the current system be fragmented.

Put as simply as I know how, a universal, uniformly priced and uniformly serviced mail system remains, even in this day of advanced technology, an essential ingredient in our functioning as one nation. The "privatized" system, in whatever form, would, I believe, lead inevitably to unequal treatment of some (perhaps most) mail users and thus would weaken these bonds. Such a system might work -- but I question at what price.

I question whether the Federal Government would feel secure that it could reach all taxpayers with income tax forms promptly and accurately and be assured of the complete return of these forms; that its disbursement of Social Security checks would be performed accurately and that it could reach all draft-eligible young men in the case of national emergency.

Every day, untold billions of dollars of bills and payments course through the mails, going to and coming from every corner of the country. Every day's mail also carries tens of millions of advertising and marketing notices; statements of account and cancelled checks, and letters with important information.

Together, all these pieces of paper constitute an absolutely crucial ingredient of the nation's business moving in a system that now works with no major problems. Good management requires balancing risks, and I believe that far more would be put at risk than is appreciated or contemplated in the Anderson paper.

If the nation's business were conducted exclusively at the local or regional levels, the dislocations from privatizing letter-mail delivery might be minimal. But we know this not to be the case. The major thrust of our economy comes from national corporations that market nationally. These corporations (and national non-profit organizations, too) would find their lines of national customer communications snarled -- or would find the prices of the "new" Postal Service prohibitive.

The Anderson paper avers that competition "promises substantially better service," but as the foregoing indicates, I simply do not see this. Unquestionably, some customers living and working in some areas would fare better -- on some of their mail. Lawyers exchanging letters in a certain city might be an example. But, it is highly questionable that these same lawyers would get their mail at home any faster or cheaper, particularly mail that might originate beyond their locality such as their American Express accounts or their law reviews.

A great deal of thought must be devoted, too, to how the various rival mail systems would pass mail among them. How the privacy of all mail would be policed. How information about address changes would be collected and shared (residents of 12.3 million households having moved last year). How mail users would have a clear idea of which system was entrusted with the delivery of a valued letter that did not arrive. How service disruptions caused by strikes or business failures of private deliverers could be accommodated by a (necessarily) greatly weakened Postal Service. How overseas military mail and international mail would be handled. And so on.

The Anderson paper acknowledges the existence of most of these problems. It fails, however, to give a clear idea of how difficult, in the aggregate, their solution would be. While the problems are not insoluble, the resources that would have to be brought to their solution would be immense. They would be so large as to raise questions of whether, in the end, vast administrative expense, inconvenience and economic waste would far outweigh the perceived projected gains in economic efficiency.

To handle this fragmented system so as to insure it operates for all citizens, a regulatory body of some kind would have to come into being. I know little about how the railroad-car interchange system that is mentioned in the paper operates. Yet I venture that the volume of mail in America (110 billion pieces last year) and the pressure for its speedy delivery make the rail-car system a pale model for what would be required. It is my guess that the necessary regulatory machinery would dwarf anything that exists today to govern the movement of letters and parcels.

In addition, I can think of no privatized letter-mail arrangement that would not involve either high rates for Postal Service customers or a heavy draw on the Treasury, and thus force ticklish decisions on Congress and the White House. In my opinion, no private company would care to undertake universal letter delivery in this country; it would entail a vast amount of capital investment with little or no profit potential. The "new" Postal Service would almost certainly be required to provide this service and, stripped of its "profitable" areas and saddled with continuing high, fixed costs, it could operate only by charging very high rates or by requiring very high levels of subsidy. A public debate to square this matter would last loud and long.

Before embarking on any such course, I respectfully suggest a closer look be taken at the Postal Service today.

At the core of the argument for repeal of the Statutes is the question of how well the mailing needs of the nation are currently being met and whether deficiencies exist that cry for drastic change.

Again I will confess the obvious: That my view may well be myopic. Nonetheless, there is hard evidence to suggest that, all factors considered, the postal system is functioning very well. In short, I believe the proposal suggests that something be fixed that isn't broken.

As evidence of the need for change, the Anderson paper says that the Postal Service is expected to request a 26-cent First Class rate late in 1982, that we have the power to establish our own prices, and that we have no accountability. It further suggests that we are dependent on subsidy and that we have predatory intentions in the area of telecommunications.

On each of these points, the information is inaccurate.

-- I am on record as saying, dozens of times, that we fully intend to hold at 20 cents for at least two years since the last increase -- that is, at least until November, 1983. Indeed, if business conditions are favorable and our productivity continues its current rate of growth, I am confident we will go longer.

-- Changing postal rates and services requires a lengthy process involving the Postal Rate Commission, which the Governors of the Postal Service can modify only if there has been a previous rejection of a Commission recommendation and only if they are in unanimous agreement. It should be noted that failure of the Rate Commission to meet our revenue requirements earlier prevented us from holding at 20 cents much longer.

-- The Postal Service is highly accountable to Congress through the latter's oversight function (postal representatives having testified at 38 Congressional hearings in the last 12 months alone), as well as being subject to the PRC process, the courts and the demands of the marketplace.

-- The President's current budget proposal contains no public service appropriations for the Postal Service. This is down from the existing level of $220 million (representing only 1% of our total budget), for Fiscal 1982. We are fully prepared to live with the elimination of this subsidy, without reducing any of our services, as we have lived with the cuts of the last year. Further, we have not protested any of these cuts, nor shall we.

-- And, despite myth to the contrary, we have not used our monopoly to compete unfairly with private telecommunications companies and have no intention of doing so. The letter monopoly applies to messages written on a tangible object that are delivered to a third party over a post road. Thus, by definition, the letter monopoly poses no threat to telecommunications entities. Further, the regulations contain a specific exemption for telegrams that covers this kind of electronic message.

Beyond these points, I think an objective look at the record dictates that some of the signs of Postal Service progress also be acknowledged:

Our basic service remains sound, and our operational capability to provide it has never been stronger, thanks to our capital investment program and our improved management control.

As a result of our attention to customer needs, we've been rewarded with growing business, our annual volume having gone from 92 to 110 billion pieces in the last four years alone.

And we are handling current volume with 71,000 fewer employees than we had in 1970, the year of the Postal Reorganization Act, when volume was 85 billion pieces. This accounts for the 38% productivity increase we have experienced since the Postal Service came into being.

Our record is hardly flawless. Yet, I believe we are on the right track and that, after a difficult start, postal reorganization is proving itself. I can attest, from my own experience, how difficult it has been to make Reorganization work. And I frankly believe the reorganization and realignment of the business that repeal of the Private Express Statutes would bring, would entail even more wrenching dislocations.

If nothing else, I hope the above lends support to my contention that this important public policy issue must be approached carefully and deliberately. I have telephoned Marty and when we can get together I will discuss with him the formation of a working group of the Council to study this issue in more detail.

Sincerely,

Bill

William P. Bolger

The Honorable Malcolm Baldridge
Secretary of Commerce
Washington, D.C. 20230

cc: CCCT Members who received
"action" copies of Mr. Anderson's memo

THE WHITE HOUSE

WASHINGTON

February 1, 1982

MEMORANDUM FOR THE CABINET COUNCIL ON COMMERCE AND TRADE

FROM: MARTIN ANDERSON

SUBJECT: PRIVATE EXPRESS STATUTES (CM 197)

ISSUE: Shall the Private Express Statutes, which preserve the federal government monopoly in the delivery of first class mail, be suspended or repealed?

BACKGROUND: The U.S. Postal Service is built upon three historic principles:

a) Monopoly: since 1792 the Private Express statutes have made it a criminal offense for private citizens to carry letter mail, with only a few present exceptions (letters not carried for compensation, letters for destinations off post routes, intra-company letters, rapid delivery mail).

b) Universality: the Postal Service is required by law to "provide prompt, reliable and efficient service to patrons in all areas and shall render postal service to all communities." It may not abandon high-cost remote areas.

c) Uniformity: the Postal Service charges one single first class rate regardless of the cost of delivery. Low-cost delivery areas (high density) thus cross-subsidize high-cost (low density) areas.

Rapid increases in USPS costs and the first class letter rate (USPS is expected to request a 26 cent first class rate late in 1982), the continued necessity for substantial public subsidies ($ 500 M in President's budgets for FY 83-86), growing desire by private sector firms to deliver letter mail, and new telecommunications advances have now forced a reexamination of the Private Express Statutes.

It is clear that repeal of the postal monopoly will force a complete change in the nature of the USPS. From a government corporation essentially beyond any public accountability, with power to establish its own prices, reach agreements with its own unions, and expand its operations into new areas of telecommunications , USPS would have to become either a private

self-sustaining corporation without special government privileges (albeit with a huge public endowment); or a permanently subsidized mail carrier of last resort, more than likely reintegrated with the Executive branch of the federal government and under full public control.

ARGUMENTS FOR REPEAL:

1. Free Enterprise: The USPS is an anachronistic government monopoly. There is no reason why mail cannot be carried by tax paying private enterprises (such as United Parcel Service).

2. Improved Service: Competition in mail delivery promises substantially better service for the great majority of postal users. (UPS now dwarfs USPS in the competitive parcel post market, offering service even to remote rural areas.)

3. Technological Inevitability: The advent of new telecommunications methods (ECOM, electronic funds transfer, direct satellite broadcasting, etc.) make increasing competition with traditional letter delivery unavoidable in any case. As more and more messages are delivered through electronic methods, the unit cost of USPS delivery will rise; the higher cost will make even more new electronic services cost-effective; and USPS will face a downward spiral in volume and an upward spiral in costs. Since Draconian efforts to prevent telecommunications competition are not desirable - or even possible - it would be better now to end the government monopoly and let the marketplace optimize efficiency.

4. Reduced Subsidies: Even if it is assumed that public service subsidies would be continued for high-cost (remote areas) delivery, many believe that the improved efficiencies in a competitive system would result in a lower net public subsidy than at present.(This point is highly controversial, however.)

5. Reduced labor costs: Introducing effective competition would exert strong downward pressure on future postal union settlements, which under the present system are immune to most competitive pressures.

6. Accountability: A competitive postal system would eventually eliminate most of today's USPS, whose functions would migrate to one or more private sector entities. The remaining public functions (service of last resort, international service, etc.) could be assigned to a fully accountable executive department (e.g., Commerce). This would finally solve the problem of the unaccountable public body created by the 1970 legislation.

7. Federalism appeal: If USPS is effectively spun off to the private sector, its facilities, transactions, and possible profits would become subject to state and local taxation. This would enhance the state and local tax base.

8. Streamlining: A privatization of the USPS would eliminate the necessity for two Congressional subcommittees and the Postal Rate Commission.

9. Reduced Treasury Debt exposure: A privatized USPS would presumably lose its privilege to borrow from the Treasury. (The USPS presently owes the Treasury more than $5 billion.)

10. Presidential Support: In newspaper columns published in 1977 and 1978, the President came out squarely for repeal of the Private Express Statutes.

ARGUMENTS AGAINST REPEAL:

1. Tradition: The postal service has been a government monopoly since the 1780s and it would be a violent break with tradition to repeal it.

2. Cream Skimming: Absent the monopoly, private firms would "skim the cream" - take the low cost business and leave the USPS , without cross-subsidy , to perform only the high cost business. This would mean much higher rates in high cost areas, the end of the uniform postage stamp rate, the end of USPS' obligation to serve all areas of the country, and great confusion, especially among private citizens, who would have to calculate different amounts of postage for their letters.

3. Poor Service: Private carriers would presumably not continue certain uneconomic but popular services, like six-day and doorstep delivery .

4. Reliability: Private firms could prove to be unreliable (i.e., even less reliable than USPS) and mailers would have even less assurance that important mail would be delivered.

5. Transaction Costs: An elaborate system would have to be worked out, an substantial expense, to allocate costs and revenues among various private firms handling the same letter. This would be akin to the railroad system for handling interroute cars, but since there are millions of pieces of mail and possibly hundreds or even thousands of private delivery firms, the transaction costs would be very significant. In addition, a computerized tracking and allocation system subject to failure could have catastrophic effects on participating firms.

6. Labor Strife: USPS employees are forbidden to strike. The employees of private firms would presumably have the right to organize and strike, inviting massive interruptions of mail service with no effective remedy beyond Taft-Hartley cooling off.

7. Benefit Protection: A competitive postal environment would presumably mean the laying off of thousands of present USPS employees. This would lead to substantial unemployment compensation costs. In addition, to the extent that present USPS

pension programs are not fully funded or vested, serious problems could arise in fulfilling retirement promises.

8. USPS ECOM: If the Private Express Statutes are repealed, the USPS would presumably be free to expand into electronic communications as its management saw fit. Whether the tremendousasset base of the USPS would give it preferential borrowing power in making this capital investment would require careful attention.

9. Continued Subsidies: It would be necessary to continue the public subsidy for high cost areas no matter what.

10. International Implications: The US is party to numerous postal treaties as a member of the Universal Postal Union. Considerable problems could arise if private firms wished to originate mail destined for a foreign government delivery system, and vice versa.

11. Political Opposition: While repeal of the government monopoly has always been attractive to free market economists and Justice Department anti-trust advocates, it has no support among the three key private sector actors: USPS management, postal unions, and major mailers. It is likely that the mailers, the only group which conceivably could be attracted to support repeal, would instead trade their potential support to secure concessions in the continual three cornered struggle with USPS and the unions. Forces that might support repeal (consumers, telecommunications firms, some mailers) are either not organized to fight this battle, or do not consider the battle against entrenched and determined opposition worth the effort.

OPTIONS:

A) No Repeal. This status quo option avoids a bruising and probably initially unsuccessful political battle with Congress . At some point, however, Congress is likely to force the issue of the future of the USPS. Since the House has twice (1977 and 1979, by overwhelming margins) called for making the Postmaster General a Presidential appointee, it would appear that Congress is much more interested in reintegrating the USPS into the executive branch than it is in moving toward a competitive postal system.

B) Immediate Repeal: This course would seem to be politically hopeless, at least for the near future. While an outright repeal, if it could be secured, would be a significant ideological victory, a repeal without simultaneously addressing the whole galaxy of postal issues is simply not possible or desirable.

C) Contingent Repeal: It might be possible to secure Congressional approval for repeal under specified circumstances. Two such circumstances could be 1) total repeal immediately upon imposition of the next USPS first class rate increase; or 2) partial repeal in geographic areas in which USPS offers ECOM

services . The former plan, since it would make repeal contingent upon independent USPS action, might serve as a powerful brake on a rate increase. The latter would create islands of competition, surrounded by higher cost (rural) areas in which the USPS monopoly would continue.

D) Negotiated Repeal: This option would involve a massive and fundamental negotiation with USPS, Congress, and private interests, in which the future of the USPS as a competitor and the public support of high cost service would be determined. This negotiation would result in an omnibus postal service bill, and it safe to say that the negotiations would be prolonged and difficult.

RONALD REAGAN ON COMPETITION IN CARRYING FIRST CLASS MAIL

"It's time to deregulate the Post Office. If any doubt remained that the so-called independent US Postal Service is hopeless, the latest labor troubles should have resolved that doubt... The next step is to decriminalize the carrying of first class mail. Deregulate it.

Those in government who resist private first class mail competition want to turn their own deregulation argument on its head. They say, if you allow private competition it will 'skim the cream' , taking the heaviest business and residential routes and ignoring small towns and rural areas. But they can't have it both ways. Won't the same thing happen as with air service (deregulation)? Sure it will. The American adage "find a need and fill it" will be in operation.

Newspaper column, September 8, 1978

(In another column released December 15, 1977, entitled "Decriminalize the Mail", Mr. Reagan described the success of the P.H. Brennan Hand Delivery service in Rochester, and the efforts of the Postal Service to prosecute it for violation of the Private Express Statutes, coming out strongly for Mrs. Brennan's right to compete.)

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 9, 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Options Concerning Davis-Bacon Act

I. Past Administration Actions

- During his campaign, the President promised not to change the Davis-Bacon Act, and we have not sent any proposals for statutory change to Congress.

- Department of Labor promulgated regulations for a more reasonable calculation of "prevailing wage" under the Davis-Bacon Act, looking to average wages in an area rather than to the union scale, and making other changes. The regulations were preliminarily enjoined by a federal district court, and we are still in litigation at the district court level.

II. Options for Future Administration Action

- Propose a bill to change the method of calculating "prevailing wages" in the same manner that Department of Labor did by regulation.

  -- However, such a bill would have a low chance of passing, especially in the House, and failure to gain passage would severely hurt our legal case in defending the Labor regulations.

  -- Also, this course of action may be inconsistent with prior Presidential promises.

- Continue our course of challenging Judge Greene's preliminary injunction ruling, and appeal to the D.C. circuit as soon as he issues a permanent injunction.

- Propose legislation to prevent courts from second-guessing executive agencies on issuance of rules and regulations.

  -- However, we have taken a position to the contrary thus far in Congress, by supporting regulatory reform proposals that would give increased authority to courts to scrutinize regulatory decisions by agencies.

what? why?

III. Analysis

Federal court injunction against Department of Labor regulations:

Judge Greene justified his preliminary injunction on grounds that the old Department of Labor regulations for determining "prevailing wage" had been in effect since the Davis-Bacon Act was enacted in the mid-1930s, that Congress had not expressed displeasure with the old regulations, and that the Department would therefore bear a heavy burden of proof in seeking to make fundamental changes in the regulation. -- This is a far heavier burden of proof than the usual standard, which allows agency rulemaking to stand unless arbitrary and capricious.

Current status of case in Judge Greene's court:

Because we did not appeal the preliminary injunction, we must wait until Judge Greene issues a permanent injunction before we can take an appeal to the D.C. circuit. We are still awaiting the permanent injunction. In the meantime, the Supreme Court is considering the airbags case, and a favorable decision in that case will help us in the Davis-Bacon regulations case.

Possible legislation to restrict judicial scrutiny of executive agency rulemaking:

Diminishing the ability of federal courts to secondguess agency rulemaking would be a good development in general, in addition to aiding our posture in the case concerning the Davis-Bacon Act regulations. Activist judges have been far too inclined to step in and overturn regulations with which they disagree. Although administrative agencies often reach unwise results, they are at least succeptible to correction by the President and ultimately by the public, unlike the federal courts.

why does our reg. reform bill go the opposite direction?

The regulatory reform proposals recently approved by the Senate with Administration backing, however, actually expand the authority of courts to intervene in agency rulemaking. The Regulatory Procedure Act of 1982 provides that on issues of law, reviewing courts should exercise independent judgment, without according any presumption in favor of or against agency action. For questions of fact, the courts are to review to ensure that agency action has substantial support in the evidence on record in the rulemaking -- a more stringent standard than the "arbitrary and capricious" standard now applicable.

This proposal does not meet the problem of arbitrary decisions of agencies or of activist decisions by judges. The reason the federal judges routinely approve unwise, liberal regulatory decisions is not that they apply the wrong standard of review, but that they agree with them. We will not be able to correct the jurisprudential defects of the federal judiciary in the near future; we can, however, hope to influence administrative agencies toward more rational decisions.

Application of Davis-Bacon to projects funded by the new gasoline tax:

The proposed gasoline tax provides an excellent opportunity to inject a note of rationality into the controversy over the Davis-Bacon Act. Since a major purpose of the bill is to create jobs, there is a strong argument to be made for creating many jobs at average-wage levels, rather than a few jobs at inflated union-scale-wage levels. We could accomplish this objective by adding an amendment along the following lines:

"Notwithstanding any other provision of law, the Secretary of Labor and grantees under this Act are empowered to set wages in such fashion as will increase opportunities for employment, including opportunities for employment of women, members of racial and ethnic minority groups, young workers, and new entrants to the job market."

Any reason to think this would fly?

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 9, 1982

FOR: EDWIN L. HARPER

FROM: STEPHEN H. GALEBACH

SUBJECT: "Ammy Awards"

This "award" is a delayed reaction to the Law Review article I wrote two years ago.

My article, published in The Human Life Review, explained how Congress could protect unborn children by statute. Congressman Hyde and Senator Helms picked up on the statutory concept that I laid out in my article and introduced a bill based on it. During 1981, as an attorney at Covington & Burling, I offered legal advice on a pro bono basis to various persons concerning the constitutionality of this statutory concept.

While strong views have certainly been expressed from both sides on political aspects of this bill, no one has ever questioned my legal competence or integrity in my role of developing and explaining the legal rationale that led to the bill. The American Lawyer relies on several false innuendoes in order to make its personal attack:

- The magazine criticizes "factual errors contained in their original draft," but the reference is to a bill introduced more than a year after the original bill by Senator Helms acting alone.

- The article creates the impression that I worked on this bill from my position in OPD, which of course I did not.

- The article assumes that the Helms measure filibustered and tabled by the Senate in September was the same as the original bill based on my article, when in fact the two measures were drastically different.

It is obvious that The American Lawyer is not interested in giving any sort of accurate description or fair assessment of the human life bill. It should be understood that The American Lawyer is essentially a gossip sheet for lawyers, hardly sympathetic to efforts to protect the unborn, and apparently out to grind an ax.

With journals of this sort, one sometimes has to accept accolades in a negative form. Given their political orientation, I would be far more concerned if I were to receive their "Best Performance" award.

File - Abortion - HLB

4 AMERICAN LAWYER 37, 42 (#10, Dec. 1982)

AMMY

• 1982 •

AWARDS

THE BEST AND WORST PERFORMANCES OF THE YEAR

BY

Jill Abramson
Connie Bruck
Carey Karmel
James Lyons
Ellen Joan Pollock
Robin Reisig
Leah Rozen
Alissa Rubin
James B. Stewart, Jr.

Can lawyers' performances be assessed apart from how good their clients' causes are? We think so. And so did the readers from around the country who sent us their nominating ballots for best performance by attorneys in various areas of practice. We used those ballots as starting points to find the winners of 1982. In some instances we have named multiple winners; in most, we have recognized "honorable mentions." Finally, to add some balance to the accolades, we found several lawyers worthy of recognition for worst performance. Herewith the 1982 Ammys.

ENTERTAINMENT

(continued)

bright young star, representing clients who this year produced some of Broadway's biggest critical and financial hits: Warner Theatrical Productions (for *Crimes of the Heart*), McCann & Nugent (for *Mass Appeal*), and Michael Bennett and the Shubert Organization (for *Dream Girls*) as well as James Nederlander, Francine LeFrak, and Roger Berlind, the major investors of *Nine*. Like most theatrical lawyers, Breglio charges a production fee (typically about $25,000 for a musical) and a weekly fee for the run of a show. Therefore, long-running productions can generate substantial income for the firm.

"He's developing a huge practice here," says Robert Montgomery, Jr., the head of Paul Weiss's entertainment department and one of New York's deans of entertainment law. "[New] clients are calling him directly every day, not calling me," adds Montgomery.

This year Breglio also became more involved in cable. He represented producer Brent Walker on the sale of the musical productions of all 12 Gilbert and Sullivan operettas to CBS Cable and PBS. In early 1982 Breglio became special outside counsel to Time Inc.'s magazine division for television and cable projects.

WORST PERFORMANCE

Harry Sloan

Occasionally television actors refuse to appear at the start of a season's shooting until they reach more favorable financial agreements with the production studios. Harry Sloan of Los Angeles's Sloan and Kuppin has represented clients Robert Guillaume ("Benson") and Gary Coleman ("Diff'rent Strokes") successfully in such past disputes. But this year Sloan and two of his clients, John Schneider and Tom Wopat of the "Dukes of Hazzard," seem to have miscalculated either the stars' clout or the studio's intransigence. In the spring Schneider and Wopat made last-minute attempts to get more money out of producer Warner Brothers. Now they're sitting out the season while the show goes on and they and Warner sue each other for millions.

The acrimonious dispute began when Schneider and Wopat sued Warner, claiming that the studio owed them $25 million in back merchandising payments and damages. Warner maintained that the two stars had received their money and that the only discrepancy was a $250 bookkeeping error.

On June 24 Warner Brothers countered with a $92-million libel and breach of contract suit. By late July Warner had replaced Schneider and Wopat and started shooting the series without them. Sloan calls his clients' posture "courageous."

While he wouldn't comment on the details of the "Dukes of Hazzard" case, Paul Brindze, an entertainment specialist at Los Angeles's Ziffren, Brittenham, Gullen & Inger, points out that "our process here is to resolve problems, rather than to exacerbate them." Brindze adds that "if the actor doesn't have the clout to be listened to [by the studio], you have to sit him down and give him a little piece of reality."

GOVERNMENT

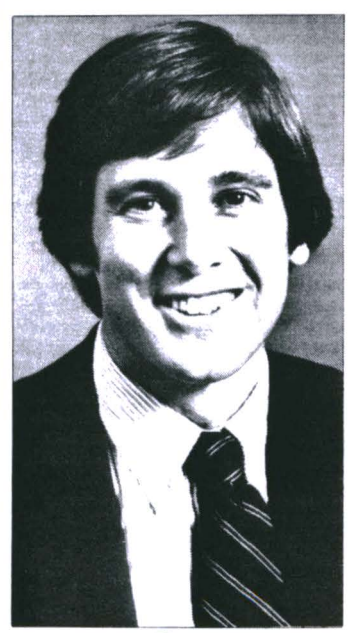
BEST PERFORMANCE

Michael Hoge

In spite of the Reagan Justice Department, Michael Hoge, general counsel of the Seattle School District, won his four-year fight against the state of Washington when the U.S. Supreme Court ruled 5–4 in Hoge's favor last June. Hoge had been successful at the district court and appellate levels and he had thought that Justice was on his side in his busing fight against the state of Washington, represented by attorney general Kenneth Eikenberry.

But in 1981 Justice decided it would change its previously favorable position on Hoge's case. Put simply, Justice decided it would not intervene in any school busing cases. Hoge says that the department's reversal "made us work a little harder" and that it made his "victory sweeter."

In 1978 the voters of Washington had passed a statewide initiative banning a voluntary school busing plan, which had been adopted by the Seattle School District. Hoge forcefully argued that the initiative had a racially discriminatory intent. The Supreme Court agreed. In fact, the High Court also ruled that Hoge and the school district were entitled to attorneys' fees. Hoge says that this is the first time a municipal government has sued its parent state for constitutional violations and been awarded attorneys' fees. (The amount has not yet been decided.)



Hoge

Hoge fought long and hard. "He did an exceptional job in light of the Justice Department's turnaround," says David Burman, a partner at Seattle's Perkins, Coie, Stone, Olsen & Williams who worked with Hoge on the early stages of the case.

But Hoge could only have been helped by his opposing counsel, Eikenberry. *American Lawyer*'s Supreme Court observer Jim Mann commented that the attorney general "flubbed the oral argument" and was reduced at times to "stammering gibberish."

BEST PERFORMANCE
HONORABLE MENTION

William Baxter, head of the Justice Department's antitrust division, had the good sense to drop the government's antitrust case against IBM which had droned on for 13 years.

WORST PERFORMANCE

Carl Anderson
Thomas Ashcraft
Stephen Galebach

Senator Jesse Helms had hoped that his human life statute would nullify, by a simple majority vote of Congress, the Supreme Court's 1973 decision legalizing abortion. But the ill-fated bill was so poorly written and reasoned that the usually reticent ABA, along with a host of federal judges, came clamoring to the side of the proabortion groups that led the fight against the statute.

Responsible for this abortion of verbiage and logic were Thomas Ashcraft, Helms's legislative assistant; Stephen Galebach, of the White House Office of Policy Development; and Carl Anderson, a lawyer at the Department of Health and Human Services. In a later version of the same bill, the draftees did correct the factual errors contained in their original draft, which were pointed out by the Congressional Research Service of the Library of Congress. There was, for example, a claim that the Nazis promoted abortion. The CRS pointed out that abortions were prohibited in Germany and that the Nazis enforced this law vigorously. But their final product still contained a hodgepodge of unusual "findings." The preamble still contained a "finding" that equated modern-day abortions with the Nazi practice during World War II of giving Russian and Polish women involuntary abortions.

Helms also advised his lawyers to include in the bill one of his pet notions: sections 7 and 8 asked Congress to define "person" to include all human beings "from conception" under the provisions of the Fourteenth Amendment. Legal scholars of all political stripes denounced these sections as an unconstitutional attempt by Congress to accomplish by majority vote what can only be done by constitutional amendment.

But Helms's assistant Ashcraft didn't see it that way. "It's silly to think that the only way you can change a Supreme Court decision is through a constitutional amendment."

But other antiabortion zealots, such as Orrin Hatch, refused to join Helms. Hatch introduced a rival bill, backed by Roman Catholic bishops, that would have outlawed abortion through a constitutional amendment. With the Helms and Hatch factions wasting time fighting each other, both measures died at the end of September.

REAL ESTATE

BEST PERFORMANCE

Alan Lascher

Alan Lascher, 40, a partner in the 40-lawyer real estate department at New York's Weil, Gotshal & Manges, was lead partner on two of the past year's biggest and most controversial real estate deals: the innovative "sale" of the General Motors office building and the construction of the Portman Hotel.

In late 1981, Lascher and senior tax partner Martin Rabinowitz worked out a plan in which Corporate Property Investors loaned Weil, Gotshal client General Motors $500 million in return for an option to purchase G.M.'s 50-floor mid-Manhattan office building in ten years for the $500 million already loaned to G.M. (and loaned at a below-market 10-percent interest rate). The chief appeal of this "loan" for G.M. was that it avoided or deferred an estimated $100 million or more in federal, state, and local capital-

Lascher

gains taxes for which G.M. might have been immediately liable if the building were sold outright. The arrangement enraged New York's Mayor Edward Koch because it avoided the city's just-passed (and since repealed) 10 percent capital-gains tax. "We are going to take the position, and that means we will sue, to collect the tax where we believe there is a technical avoidance to subvert the clear tenor of the law," the mayor told *The New York Times* at the time. Despite the mayor's threat, the city never sued and the deal was closed on December 31, 1981.

The $320-million Portman project, a 50-floor, 2,020-room hotel to be built in the heart of New York's Times Square district, involved complex negotiations between client Times Square Hotel, Inc., Portman Properties, and others, as well as highly publicized opposition to the project from a coalition of theater and environmental groups who objected to the demolition of two landmark Broadway theaters, the Helen Hayes and the Morosco, to make way for the hotel. "All the publicity brought a great deal of pressure to bear on the negotiations," Lascher says. "It's difficult to negotiate when your partner [litigator Michael Hess] is in federal court all the time battling injunctions." The theaters finally came down in late March, and Lascher closed the deal in early April.

PHOTOGRAPHS BY BART ATTEBERY (HOGE)
RICHARD SANDLER (LASCHER)

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 10, 1982

FOR: EDWIN L. HARPER

FROM: WILLIAM P. BARR WPB

SUBJECT: Need for Presidential Meeting with Indians

The President's policy statement on Indians has been ready since early September. It is imperative that we release it soon. This should be done at a Presidential meeting with tribal leaders.

- At the start of our Administration we had broader and stronger support among the Indians than perhaps any other Administration in recent history.

- Over the last two years, our position has markedly deteriorated. The complaint is that Indian affairs are being handled just as they were under the Carter Administration.

- Over the past month articles have appeared in Newsweek and other general media attacking the Administration's neglect of the Indians and using this as a prime example of our lack of "fairness".

- The policy statement that was painstakingly developed over the summer and which was approved by the President should be very popular with the Indian people.

- In the face of our eroding position, it is difficult to understand why we have sat around for four months while we have had such an excellent statement in the can.

- We have an active Republican group among the Indians, and they have been pleading with us to release the statement.

- The Indians are one of the only major groups that has not had an event with the President, a fact which is noted, and widely commented upon, in Indian country -- and a fact that is starting to rankle.

- Since September, at least three separate scheduling requests have gone nowhere.

Action Needed:

1) The latest scheduling request, endorsed by you and Secretary Watt, has been pending in Red Cavaney's office since December 3. Elizabeth Dole has endorsed previous scheduling requests. You should encourage Dole to get the scheduling request over to Sadlier as soon as possible. A copy of the latest scheduling request is attached.

2) Advise the Senior Staff of the urgency of scheduling the Indian event.

THE WHITE HOUSE

WASHINGTON

SCHEDULE PROPOSAL — NOVEMBER 24, 1982

TO: WILLIAM K. SADLEIR, DIRECTOR
PRESIDENTIAL APPOINTMENTS AND SCHEDULING

FROM: ELIZABETH H. DOLE

REQUEST: Meeting with tribal leaders and to make an address on the occasion of the release of the President's major statement on Indian policy.

PURPOSE: To outline and encourage support for the Administration's Indian Policy of tribal sovereignty and self-determination for federally-recognized tribes.

BACKGROUND: November 22 New Republic cover story slams the President for neglect of Indian issues. The Indian population numbers 1.4 million, primarily in 500 federally-recognized tribes and organizations. Decisions on the content of the President's Indian Policy Statement were made by the President in the Cabinet Council meeting September 20. This statement is in keeping with the President's 1980 campaign government-to-government relationship; self-government; repudiation of "termination", and the need for developing Indian economic self-sufficiency. This policy is in accord with this Administration's New Federalism policy; the Administration's Economic Recovery Plan; deregulation, and involvement of the private sector in addressing national needs.

PREVIOUS PARTICIPATION: To date the President has had no event with Indian tribal leaders, a fact which has been noted in Indian country.

DATE: Before new budget announcement

LOCATION: State Dining Room DURATION: 1 hour

PARTICIPANTS: 100 tribal leaders

OUTLINE OF EVENT:
-Briefing with Q&A by Sec. Watt and Asst. Sec. Ken Smith
-Press enters
-President enters and makes statement
-President exits

REMARKS REQUIRED: Remarks

MEDIA COVERAGE: Full press

RECOMMENDED BY: Elizabeth H. Dole, Sec. Watt, Ed Harper

OPPOSED BY:

PROJECT OFFICER: Morton C. Blackwell

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 14, 1982

FOR: EMILY ROCK
DIANA LOZANO

FROM: STEPHEN H. GALEBACH

SUBJECT: HHS Medicaid Waivers for Home Care

Here is a one-paragraph description of the latest development in HHS's attempts to follow-up on the President's directive in the Katie Beckett case. It would, of course, be very helpful if we could get nationwide attention for the waiver program and make the public generally aware of how they can apply for waivers.

BRIEFLY THIS WEEK

FYI - Bill Roper

A coalition of consumer groups and the parents of two children who were fed defective infant formula have sued the Food and Drug Administration, claiming that the FDA has bowed to industry pressure and weakened infant formula regulations. The lawsuit, filed last week in U.S. District Court in the District of Columbia, states that FDA's regulations, which went into effect in July, fail to carry out the mandate of the 1980 Infant Formula Act which requires strict quality control regulations to prevent mishaps like those that occurred in 1952 and 1979.

Controversial national guidelines used by health systems agencies in reviewing certificate-of-need applications for CT scanners were rescinded in a November 30 "Federal Register" final notice, effective immediately. Doctors and hospitals had charged that the guidelines interfered with the proper distribution of what they consider an essential technology, and much of the criticism surrounding health planning has centered on decisions involving the scanners. HHS is making available non-regulatory information on scanners.

HHS' proposal for a new Medicare and Medicaid prospective payment system for independent rural health clinics (RHCs) is contained in the December 1 "Federal Register." RHCs are currently paid on a retrospective reasonable cost basis. The new system would be based on the ratio of costs to charges, figured for each clinic. HHS believes this will give RHCs incentives for efficiency since there would be no end-of-year settlement. The same issue of the "Federal Register" includes a final notice establishing new productivity screening guidelines for RHCs and a new upper limit for RHC services of $32.10 per visit.

HHS wants to make it easier for states to apply for waivers that would allow home and community care coverage to Medicaid beneficiaries who remain institutionalized to avoid losing Medicaid eligibility. HHS has developed a model waiver request form that can be submitted in addition to or in lieu of a regular home and community based waiver request authorized as part of the 1981 budget act. The model waivers would cover only those Medicaid beneficiaries who are institutionalized in order to receive Medicaid benefits. This is the latest in a series of moves both by the Administration and Congress to resolve the now famous case of Katie Beckett, a little girl from Cedar Rapids, Iowa, who came to national attention last year because deeming rules made her eligible for Medicaid only if she remained institutionalized.

PEOPLE: Stanley Jones is resigning as Washington vice president of Blue Cross & Blue Shield to return to the Health Policy Alternatives consulting firm from whence he came two and a half years ago. His replacement with the Blues has not been announced....Eugene Rubel has been named vice president of Elmar Medical Systems, Ltd., of Bethesda MD....William Small has been named director of American Medical Association's new Washington Department of Media and Information Services.

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