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12

WHITE HOUSE
OFFICE OF RECORDS MANAGEMENT
WORKSHEET

TR

- X-MEDIA
- H-INTERNAL

Name of Document: BRIEFING PAPERS
FOR PRESIDENT'S
SCHEDULED
APPOINTMENTS FOR SEP0883

Subject Codes:

1) Subject: Interview with ~~columnist~~ columnist,
James J. Kilpatrick.

P	R	0	0	7	-	0	1
P	R	0	1	6	-		
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2) Meeting with the Cabinet Council on Legal
Policy to review the Third Quarterly
Report of the Attorney General on Legal
Equality for Women.

F	G	0	1	0	-	0	2
R	S				-		
H	U	0	1	6	-		
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3) Meeting with Jeanne Stratton, author
of Pioneer Women.

P	U				-		
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4) Meeting with PILGRIM AIRLINES pilots
THOMAS PRINSTER and LYKE HOGG to
commend them for their heroic deeds
during flight 458.

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5) Meeting with the staff of the White House
Dist Unit.

F	G	0	0	6	-	0	1
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ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
RMHENL		RSZ			C	

Referral Note:

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- H-INTERNAL

Name of Document: BRIEFING PAPERS
FOR PRESIDENT'S
SCHEDULED
APPOINTMENTS FOR

SEP 08 83

Subject Codes:

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ME		0	0	2	-		
PR		0	1	1	-		
WE		0	0	4	-		
PL		0	0	5	-	0	4
					-		
IS					-		
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					-		
LG					-		

5) Subject: Meeting with the staff of the
office of Public Liaison
→ FAITH WHITTLESEY and

7) Filming session for the 35th anniversary
of the National Heart, Lung, and Blood
Advisory Council.

- 8) Videotaping session for:
- A) James S. Brady Presidential
Foundation fundraising events
 - B) Twelfth annual conference of Eagle
Forum.
 - C) 57th annual convention of the
Independent Insurance Agents
of America
 - D) Tenth anniversary of the American
Legislative Exchange Council.

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
RMHENL		RSZ			C	

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WORKSHEET

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SCHEDULED
APPOINTMENTS FOR

SEP0883

Subject Codes:

P	R	0	0	7	-	0	1
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Subject:

8-E) 150th anniversary of the signing
of "The Treaty of Amity and Commerce"
by the governments of the United States
and OMAN.

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
RMHENL		RSZ			C	

Referral Note:

THE SCHEDULE OF
PRESIDENT RONALD REAGAN

Thursday, September 8, 1983



9:00 am (30 min)	<u>Staff Time</u> (Baker/Meese/Deaver)	Oval Office
9:30 am (15 min)	<u>National Security Briefing</u> (Clark)	Oval Office
9:45 am (15 min)	<u>Senior Staff Time</u>	Oval Office
10:00 am (90 min)	<u>Personal Staff Time</u>	Oval Office
11:30 am (30 min)	<u>Meeting with Jeane Kirkpatrick</u> (Clark)	Oval Office
12:00 m (60 min)	<u>Lunch with the Vice President</u>	Oval Office
1:00 pm (30 min)	<u>Briefing for Interview</u> (Gergen/Speakes)	Oval Office
1:30 pm (20 min)	<u>Interview with James Kilpatrick</u> (Gergen/Speakes)	Oval Office
2:00 pm (60 min)	<u>Meeting with Cabinet Council</u> <u>on Legal Policy (Fuller)</u>	Cabinet Room
3:00 pm (60 min)	<u>Personal Staff Time</u>	Oval Office
4:00 pm (30 min)	<u>Personnel Time</u> (Herrington)	Oval Office
4:30 pm (30 min)	<u>Administrative Time</u> 1. Heroic Airline Pilots (Fischer) 2. Joanna Stratton, author of <u>Pioneer Women</u> (Whittlesey) 3. Photo with White House Gift Unit (Rogers) 4. Photo with Public Liaison Staff (Whittlesey)	Oval Office
5:00 pm (30 min)	<u>Taping Session</u> (Bakshian/Goode) 1. Heart, Lung, Blood Council (Meese) 2. Brady Foundation Events (Mahan) 3. Eagle Forum Conference (Whittlesey) 4. Independent Insurance Agents (Whittlesey) 5. American Legislative Exchange Council (Verstandig) 6. Anniversary of Treaty of Amity and Commerce between the US & Oman (Clark)	Diplomatic Reception Room

THE SCHEDULE OF
PRESIDENT RONALD REAGAN



Thursday, September 8, 1983

9:00 am (30 min)	<u>Staff Time</u> (Baker/Meese/Deaver)	Oval Office
9:30 am (15 min)	<u>National Security Briefing</u> (Clark)	Oval Office
9:45 am (30 min)	<u>Meeting with Jeane Kirkpatrick</u> (Clark)	Oval Office
10:15 am (1hr 45 min)	<u>Personal Staff Time</u>	Oval Office
12:00 m (60 min)	<u>Lunch with the Vice President</u>	Oval Office
1:00 pm (30 min)	<u>Personal Staff Time</u>	Oval Office
1:30 pm (20 min)	<u>Interview with James Kilpatrick</u> (Gergen/Speakes)	Oval Office (TAB A)
2:00 pm (60 min)	<u>Meeting with Cabinet Council on Legal Policy (Fuller)</u>	Cabinet Room (TAB B)
3:00 pm (60 min)	<u>Personal Staff Time</u>	Oval Office
4:00 pm (30 min)	<u>Personnel Time</u> (Herrington)	Oval Office
4:30 pm (30 min)	<u>Administrative Time</u> 1. Joanna Stratton, author of <u>Pioneer Women</u> (Whittlesey) 2. <u>Heroic Airline Pilots</u> (Fischer) 3. Photo with White House Gift Unit (Rogers) 4. Photo with Public Liaison Staff (Whittlesey)	Oval Office (TAB C)
5:00 pm (30 min)	<u>Taping Session</u> (Bakshian/Goode) 1. Heart, Lung, Blood Council (Meese) 2. Brady Foundation Events (Mahan) 3. Eagle Forum Conference (Whittlesey) 4. Convention of Independent Insurance Agents (Whittlesey) (draft remarks attached) 5. American Legislative Exchange Council (Verstandig) 6. Anniversary of Treaty of Amity and Commerce between the US & Oman (Clark)	Diplomatic Reception Room (TAB D)

UNP 9/7/83
4:00 pm

THE SCHEDULE OF
PRESIDENT RONALD REAGAN

Thursday, September 8, 1983



9:00 am (30 min)	<u>Staff Time</u> (Baker/Meese/Deaver)	Oval Office
9:30 am (15 min)	<u>National Security Briefing</u> (Clark)	Oval Office
9:45 am (15 min)	<u>Senior Staff Time</u>	Oval Office
10:00 am (90 min)	<u>Personal Staff Time</u>	Oval Office
11:30 am - 11:54 (30 min)	<i>10:31 Shultz call (WPC) - left 10:45 - call with 10:38</i> <u>Meeting with Jeane Kirkpatrick</u> (Clark)	Oval Office
12:00 m (60 min)	<u>Lunch with the Vice President</u>	Oval Office
1:00 pm (30 min)	<u>Briefing for Interview</u> (Gergen/Speakes)	Oval Office
1:30 pm (20 min)	<u>Interview with James Kilpatrick</u> (Gergen/Speakes)	Oval Office
2:00 pm (60 min)	<u>Meeting with Cabinet Council</u> <u>on Legal Policy (Fuller)</u>	Cabinet Room
3:00 pm (60 min)	<u>Personal Staff Time</u> <i>WPC re IOWF 3:24 - 3:49 John Pendulak</i>	Oval Office
4:00 pm (30 min)	<u>Personnel Time</u> (Herrington)	Oval Office
4:30 pm (30 min)	<u>Administrative Time</u> 1. Heroic Airline Pilots (Fischer) 2. Joanna Stratton, author of <u>Pioneer Women</u> (Whittlesey) 3. Photo with White House Gift Unit (Rogers) 4. Photo with Public Liaison Staff (Whittlesey)	Oval Office
5:00 pm (30 min)	<u>Taping Session</u> (Bakshian/Goode) 1. Heart, Lung, Blood Council (Meese) 2. Brady Foundation Events (Mahan) 3. Eagle Forum Conference (Whittlesey) 4. Independent Insurance Agents (Whittlesey) 5. American Legislative Exchange Council (Verstandig) 6. Anniversary of Treaty of Amity and Commerce between the US & Oman (Clark)	Diplomatic Reception Room

The two pilots "...were burned horribly and as they made their way towards the shore, a quarter-mile away, lumps of charred flesh fell from their arms and legs. Their hair was cinder. Smoke or body steam was riding from their open wounds and clothing. Burnt, blackened gashes split their legs, exposing the bone beneath." (Professional Pilot magazine, May, 1982).

Hogg was burned over 25% of his body. Seventy percent of Prinster's body was burned and much of that was third degree. Today, 18 months later, Lyle Hogg is still undergoing plastic surgery but has returned to his job with Pilgrim Airlines. Tom Prinster continues to undergo plastic surgery as well as remedial surgery to regain the use of his hands and right leg. It is unlikely that he will be able to return to flying.

U.S. Air pilot, Vincent Green, an Air Safety Chairman for the Airline Pilots' Association has said "it was one of the most outstanding feats of flying I have ever encountered."

III.. PARTICIPANTS

- SEC. DOLE

Thomas Prinster
Linda Prinster
Lyle Hogg
Gretchen Hogg
Louis Fischer

- LYN HELMS

IV. PRESS PLAN

WH Photographer only

V. SEQUENCE OF EVENTS

Guests will be escorted into the Oval for a brief meeting and photographs.

Jef

THE SCHEDULE OF
PRESIDENT RONALD REAGAN



Thursday, September 8, 1983

9:00 am (30 min) Staff Time 9:03 - (Baker/Meese/Deaver) Oval Office

9:30 am (15 min) National Security Briefing 9:12 - 10:00 (Clark), BUSH, EM, JB, MKD Oval Office

9:45 am (15 min) Senior Staff Time 9:35 Phil Dur Oval Office

10:00 am (90 min) Personal Staff Time 10:00 - Oval Office

11:30 am (30 min) Meeting with Jeane Kirkpatrick (Clark) 11:30 - 11:55 Oval Office

12:00 m (60 min) Lunch with the Vice President 12:02 - 12:50 Oval Office

1:00 pm (30 min) Briefing for Interview 1:06 - (Gergen/~~Speakes~~), JB, DARMAN, K. SMALL, Mike Bacon Oval Office

1:30 pm (20 min) Interview with James Kilpatrick (Gergen/~~Speakes~~), JB, K. SMALL, G. Gergen Oval Office

2:00 pm (60 min) Meeting with Cabinet Council 2:04 - 3:11 on Legal Policy (Fuller) Cabinet Room

3:00 pm (60 min) Personal Staff Time 3:24 - 3:47 W. CLARK, J. POINTSVIDER, Oval Office

4:00 pm (30 min) Personnel Time 4:00 - 4:14 (Herrington), EM, Oval Office

4:30 pm (30 min) Administrative Time 4:30 - 4:52 Oval Office

1. Heroic Airline Pilots (Fischer)
2. Joanna Stratton, author of Pioneer Women (Whittlesey)
3. Photo with White House Gift Unit (Rogers)
4. Photo with Public Liaison Staff (Whittlesey)

5:00 pm (30 min) Taping Session (Bakshian/Goode) 5:00 - 6:41 Diplomatic Reception Room

1. Heart, Lung, Blood Council (Meese)
2. Brady Foundation Events (Mahan)
3. Eagle Forum Conference (Whittlesey)
4. Independent Insurance Agents (Whittlesey)
5. American Legislative Exchange Council (Verstandig)
6. Anniversary of Treaty of Amity and Commerce between the US & Oman (Clark)

6:42 -

THE SCHEDULE OF
PRESIDENT RONALD REAGAN

Thursday, September 8, 1983



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4:30 pm (30 min)	<u>Administrative Time</u> 1. Joanna Stratton, author of <u>Pioneer Women</u> (Whittlesey) 2. Photo with White House Gift Unit (Rogers) 3. Photo with Public Liaison Staff (Whittlesey)	Oval Office
5:00 pm (30 min)	<u>Taping Session</u> (Bakshian/Goode) 1. Heart, Lung, Blood Council (Meese) 2. Brady Foundation Events (Mahan) 3. Eagle Forum Conference (Whittlesey) 4. Convention of Independent Insurance Agents (Whittlesey) 5. American Legislative Exchange Council (Verstandig) 6. Anniversary of Treaty of Amity and Commerce between the US & Oman (Clark)	Diplomatic Reception Room

Revised 9/8/83

11NP 7:30 am

THE WHITE HOUSE

WASHINGTON

September 7, 1983

INTERVIEW WITH COLUMNIST JAMES J. KILPATRICK

DATE: Thursday, September 8, 1983
LOCATION: Oval Office
TIME: 1:30 p.m. (20 minutes)
FROM: Karna Small

I. PURPOSE:

To grant an interview to a conservative columnist who has been widely supportive of your policies and who is an old friend. This will be on-the-record and will be used in columns (or possibly mentioned during an Agronsky & Company program on which Jack Kilpatrick appears each week).

II. BACKGROUND:

James J. (Jack) Kilpatrick is a well known, respected columnist whose syndicated column appears in The Washington Post and other papers nationwide. You and Mrs. Reagan attended a picnic at Jack's Virginia home the first summer of your Administration. He has been a frequent guest at the White House. Several weeks ago, Jack underwent heart surgery. You called him from Camp David and sent flowers as well.

III. PARTICIPANTS:

The President	David Gergen
James J. Kilpatrick	Larry Speakes
James Baker	
Karna Small	

IV. PRESS PLAN:

White House Photographer only

V. SEQUENCE OF EVENTS:

After initial pleasantries, the interview will begin.

VI. REMARKS:

No formal remarks, but see attached list of anticipated questions.

Briefing material being submitted separately by Mike Baroody.

ANTICIPATED AREAS OF QUESTIONING DURING INTERVIEW WITH
JAMES J. KILPATRICK

This interview will probably center on domestic issues:

Gender gap: Jack has written an as yet unpublished column on the gender gap. He says he'd like to see a poll limited to women who voted for you in 1980 to see if any had really changed their minds and feels the number would be exceedingly few. He feels that whatever kept some women from voting for you in 1980 (ERA etc.), nothing would have changed to make them switch. But he feels the record today, with the appointments of Sandra O'Conner, Elizabeth Dole and Margaret Heckler, is probably better than it was in 1980. He will ask your opinion and what you are doing to attract more women voters.

Farm price supports: Jack is concerned about the rising cost of farm price supports and wants to know what you can do about it? (In a column to be published this weekend on the KAL 007 incident he maintains you did the correct thing in not cancelling the grain agreement as that would have hurt American farmers).

Deficits: Jack is concerned about the deficits and whether you will decide to raise any taxes. He will probably ask you about one of the original foundations of Reaganomics and the supply side theory that reasoned that your original tax cuts would generate so much revenue, you wouldn't need to raise taxes. He says it hasn't worked out that way and wants to discuss this issue.

Politics: He may ask about the 1984 campaign -- your plans, thoughts, other possible candidates.

(Note: He does not intend to spend time talking about the KAL 007 tragedy since he'd rather concentrate on domestic issues. However, he did write a column that will appear this weekend about "The Mouse That Roared" but his basic conclusion, he says, is supportive in that he feels you did about as much as you could do since our Allies haven't cooperated in banning Aeroflot flights, etc. and he feels we would have to work in concert with our Allies. He does NOT agree with the more hard-line conservatives who have criticized your actions as not being strong enough).

Received SS
1983 SEP -7 PM 6:49

The President has seen _____

THE WHITE HOUSE
WASHINGTON
September 7, 1983

MEMORANDUM FOR THE PRESIDENT

FROM:

MIKE BAROODY *MB*

SUBJECT:

Briefing Materials for Thursday Interview
with James J. Kilpatrick

Attached are briefing materials on those subjects Kilpatrick told Karna Small he would want to explore with you in your meeting at 1:30 tomorrow.

Also attached is a copy of Kilpatrick's column, as he telecopied it to us this afternoon. It will appear in papers this weekend. Kilpatrick writes of your Monday night speech that "the bitter of truth... is that the President's feeble response was the best that could be made... Mr. Reagan had no sticks to wield, no stones to throw."

September 7, 1983

NOTES FOR THURSDAY INTERVIEW WITH JAMES KILPATRICK

Gender gap

- o Administration record much better than critics will concede.
- o Many of today's critics also opposed RR in 1980 and so are unwilling to acknowledge any accomplishments. Can do little to change minds that are already made up.
- o But RR is concerned that the drumbeat of very vocal criticism has raised doubts among many fair-minded, open-minded women and he will work to reassure them.
- o Going into Cabinet Council meeting right after this interview to discuss AG's 3rd quarterly report on correcting sex-based discrimination in federal law.
- o AG's report identifies 140 statutes that make distinctions based on gender. 24 of these have been corrected; about half of those remaining would be fixed by the bill introduced by Senator Dole. We'll be discussing what should be done about the remaining 65 or so in the Cabinet Council meeting.

Reminder on RR's record

- o Appointments:
 - More than 1200 appointed overall;
 - More presidential appointments in first two years than Carter (105 - 101).
 - 3 in Cabinet (Heckler, Dole, Kirkpatrick) -- more than ever.
- o Enforcement:
 - Justice has filed 18 cases against sex discrimination in employment -- only 16 filed under Carter in same period;
 - Despite criticism of our position, have sued to enforce Title IX requirements, for example against University of Alaska to assure equal treatment of female athletes.
- o Initiatives:
 - Have improved child support enforcement (raised \$168 million from delinquent fathers' tax refunds in 1982) and proposing much tougher action to go after \$3-4 billion estimated in default from fathers not providing court-ordered payments.
 - Practically eliminated marriage penalty and "widow's tax."
 - Also increased child-care tax credit.

COST OF FARM PROGRAMS

NOTE: Kilpatrick is sympathetic to farmers and understands agriculture's problems. But he's disturbed by mushrooming cost of farm programs since RR took office. Likely to ask RR's views on how to cut costs.

Farm price supports cost only \$4 billion in 1981. They exploded in 1982 to total \$11.7 billion and will cost an estimated \$21.2 billion in 1983.

- o Many don't realize that, like so many other high-cost government programs, farm price supports are essentially entitlements that grow automatically.
- o Congress sets price support levels for major crops and then, by law, USDA pays farmers when farm prices fall short.
- o Congress required very large annual increases in price support levels in the last 2 farm bills -- the one passed in 1977 and then the one in 1981. These increases were designed to protect farmers against inflation.
- o Unfortunately, the 1981 bill assumed continuing high rates of inflation and didn't foresee the success we've had in getting costs under control.
- o These high supports contributed to record crops in 1981 and 1982. These, in turn, depressed prices forcing farmers to stockpile much of their production -- and triggering the high price support payments to help make up for farm losses.
- o That's why costs have gone through the roof and the solution is two-fold.
 - PIK to help draw down crop surpluses;
 - Work with Congress to restrain price support increases, perhaps by freezing supports at the 1983 level. The farmer would still be protected because lower inflation has kept his costs down.

DEFICITS

NOTE: Kilpatrick has said he intends to press on the deficit question, and to explore with RR whether the supply-side promise of higher revenues from lower tax rates has turned out to be an empty one.

- o Recovery that began first of this year makes pretty good case in defense of RR's economic policy.
- o Before RR's program, U.S. had high inflation, high interest rates, high taxes, over-regulation and high deficits.
- o Program's led to dramatic progress on all of these except deficits, and continuing the program -- by adopting RR's budget proposed last winter -- would give us progress there too.
 - spending restraint in budget would cut spending \$208 billion over next 5 years, cut deficit to less than half current level.
 - contingency tax in 1986 would assure higher revenues if needed, provided Congress adopts spending cuts, recovery is sustained and deficit levels justify it.
- o Tax cuts not the cause of deficits but have helped cause the recovery.
- o In turn, the strength of the recovery will help to lower the deficits some. Estimate for next year has been cut about \$10 billion because of higher than expected growth.
- o Deficits caused by three factors:
 - Unexpected recession of 1981-82 (which began before the program took effect). Dramatically lowered revenue.
 - Unexpected progress against inflation, which also lowers revenues.
 - Higher than expected outlays because of higher than planned unemployment benefits, farm price support payments and the like.

Key point: Deficits can be brought down substantially but only if Congress gives up the temptation to go back to tax and spend and works with RR to restrain spending.

FOR RELEASE: SATURDAY/SUNDAY, SEPTEMBER 10/11, 1983

A CONSERVATIVE VIEW by James J. Kilpatrick

THE MOUSE THAT ROARED

WASHINGTON -- As an example of the orator's art, President Reagan's Monday night speech was virtually flawless. He had all his stage business just right; the taped recordings of the Soviet pilot added a fine dramatic touch. Given a striped pants, a top hat and a star-spangled vest, the president could have modeled for Uncle Sam in the posters saying, "I want you."

But once the forensic form has been admitted, the literal substance remains to be examined, and of substance there was pathetically little. The president's sense of outrage was evident in his rhetoric. The Soviets' action in shooting down a defenseless civilian airliner was a "massacre." It was a "crime against humanity." Such a crime "must never be forgotten." It was an atrocity, an act of barbarism.

And what response did the president recommend? He proposed a joint resolution from Congress, condemning the Soviet Union and demanding reparations.

Well, the saints preserve us. Within the Kremlin walls, such ~~unsubstantiated~~ corn flake resolutions have no impact. The Soviets eat them for breakfast. Mr. Reagan wanted the United Nations Security Council to express itself, but a resolution from the UN--if it survived a Soviet veto--would be as ephemeral. The president had a further thought, that the flow of "military and strategic items" should be curtailed, but if any such "flow" now is going from the United States to the Soviet Union we have an unprinted front page story crying out for publication.

This is the bitter truth, and it is galling to accept it: The

SEPT. 10/11

president's feeble response was the best that could be made. There is a child's jingle that might have been chanted in the Kremlin: "Sticks and stones may break my bones, but words can never hurt me." Mr. Reagan had no sticks to wield, no stones to throw. He had fewer options than President Carter had at the time the Soviets invaded Afghanistan, and Mr. Carter's options were nothing to strike terror into the Communist heart.

The only effective response would have been a multilateral response. After all, the 269 victims of the doomed airliner came from 13 countries. The Soviets' savage defense of their own airspace must cause international concern among pilots and passengers who fly global routes. Yet three days of intense pressure from the White House could produce no massive sanctions against the Soviet Union, no mass cancellation of air traffic, not even a symbolic recall of ambassadors. Canada suspended Aeroflot rights for 60 days. It was the moral equivalent of requiring Billy Martin to sit out a Sunday doubleheader.

To have cancelled the grain deal would have accomplished precisely nothing--nothing, that is, except to ~~impose~~ impose further hardship on American farmers who are suffering one of the most disastrous years in recent history. The Soviets would have turned to alternative sources or, more likely, simply tightened everyone's belt by one more hole.

Without concerted support within the Western world, ~~sanctions~~ ~~sanctions~~ Mr. Reagan could have taken no punitive action on the shipment of high-technology items. The president was badly burned some months ago in the matter of the European pipeline. Our allies want to do business with the Soviet Union. Toward that end, they are entirely

SEPT 10/11

willing to extend credits and to make other favorable arrangements for trade.

The long and short of it is that the Soviets have gotten away quite literally with murder. There will be no apology, no reparations, no compensation to the families of the dead. ~~Amusing~~ But the childish jingle falls short of absolute truth. Words do hurt; the resolutions of condemnation may not hurt the Kremlin leaders themselves, but the incident and its aftermath add to the record. They provide one more chapter in the book.

To be sure, not many Western leaders are inclined to read the book. Until Afghanistan came along, Jimmy Carter had refused to read it. But page by page, the volume swells and the record of Soviet brutality grows longer. All we can do now, in a mood of national frustration, is to keep coiling a rope of history on which the Soviets ~~eventually~~ ^{one day} may hang themselves.

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Alan: Reschedule the piece on Bible classes in Bristol for Thursday, September 15. I will let you have a piece on the Washington Post and the Legal Services Corporation for the 13th.

THE WHITE HOUSE

WASHINGTON

September 7, 1983

CABINET COUNCIL ON LEGAL POLICY MEETING

DATE: SEPTEMBER 8, 1983

LOCATION: Cabinet Room

TIME: 2:00 (60 minutes)

FROM: Craig L. Fuller *CF*

I PURPOSE

To review the Third Quarterly Report of the Attorney General on Legal Equity For Women, and to decide upon implementation options proposed by the Cabinet Council on Legal Policy in light of the findings of the report.

II BACKGROUND

The Third Quarterly Report of the Attorney General on Legal Equity for Women is the product of a computer search of the U.S. Code that used key words to flag laws that contained gender distinctions. Barbara Honeggar was involved in the computer search aspect of the report's preparation.

The study took one year to perform and was submitted to the Office of Cabinet Affairs on July 14, 1983.

The report is the third in a series of four reports called for in Executive Order 12336, which directed the Attorney General to review Federal laws and regulations and identify language that unjustifiably discriminates against women on the basis of sex.

Review of the findings of the Justice Department study has been completed by OMB and the Cabinet Council on Legal Policy. Their recommendations for your consideration during the meeting are attached.

III PARTICIPANTS

Members of the Cabinet. Senior White House staff.

IV PRESS PLAN

None.

V SEQUENCE OF EVENTS

At 2:00 P.M. you will convene the meeting and offer brief remarks.

Attorney General Smith is prepared to direct the remained of the meetings agenda.

THE WHITE HOUSE

WASHINGTON

September 7, 1983

MEMORANDUM FOR THE PRESIDENT

FROM:

CRAIG L. FULLER 

SUBJECT:

Decisions on Specific Statutory Provisions
Identified in the Attorney General's Third
Quarterly Report

In addition to the briefing paper from the Attorney General which is contained in this packet, you will receive prior to the Cabinet Council on Legal Policy meeting a decision memorandum listing the specific statutory provisions in which changes to correct "sex bias" are being contemplated.

Since this additional memorandum is undergoing final agency review prior to being signed by the Attorney General, I have attached the final draft for your review so that you may be familiar with the actual decision document prior to the meeting.

During the meeting tomorrow, we will review the statutory changes as grouped in the attached package. The discussion at the Cabinet Council meeting will allow for an opportunity to raise any specific concerns members of the Cabinet or White House staff may have with the suggested changes.

You should know that these suggested changes actually came from the affected departments and agencies, thus agreement in most of the areas covered is likely.

The Eight Statutory Provisions Identified in
Third Quarterly Report as "Uncorrected Sex Bias"
Which Had Already Been Corrected Before Report Issued

<u>Page of Report</u>	<u>Statute</u>	<u>Nature of Change</u>
21	49 U.S.C. Sec. 10722	Changed "widow" to "surviving spouse" (Bus Regulatory Reform Act of 1982, 96 Stat. 1120)
26	46 U.S.C. Sec. 152	Repealed by the codification of subtitle II of Title 46, U.S. Code (Act of August 26, 1983)
26	46 U.S.C. Sec. 153	Repealed by the codification of subtitle II of Title 46, U.S. Code (Act of August 26, 1983)
26	46 U.S.C. Sec. 154	Repealed by the codification of subtitle II of Title 46, U.S. Code (Act of August 26, 1983)
26	46 U.S.C. Sec. 561	Repealed by the codification of subtitle II of Title 46, U.S. Code (Act of August 26, 1983) (also included in S. 501)
26	46 U.S.C. Sec. 599(b)	Revised by Act of August 26, 1983, to be sex-neutral (also included in S. 501)
26	46 U.S.C. Sec. 601	Revised by Act of August 26, 1983, to be sex-neutral (also included in S. 501)
26	46 U.S.C. Sec. 627	Revised by Act of August 26, 1983, to be sex-neutral

The One Statutory Provision Identified in
Third Quarterly Report as "Uncorrected Sex Bias"
Which Has Been Proposed for Correction
In Other Than S. 501

<u>Page of Report</u>	<u>Statute</u>	<u>Nature of Change</u>
11	42 U.S.C. Sec. 1307	Change "former wife divorced" to "divorced spouse" (proposed in H.R. 3805, introduced August 4, 1983)

The 27 Statutory Provisions Identified in
Third Quarterly Report, Not Included
in S. 501, Which We Can Support Changing

<u>Page of Report</u>	<u>Statute</u>	<u>Nature of Change</u>
1	33 U.S.C. Sec. 857-4	Extend benefits to widows <u>and widowers</u>
2	10 U.S.C. Sec. 311(a)	Change definition of militia to include all able-bodied "persons" instead of "males"
2	10 U.S.C. Sec. 520 Note	Can be repealed after September 30, 1983, without substantive impact -- DOD comments that it is not discriminatory in the first place
2	10 U.S.C. Sec. 772(c)	Delete the proviso pertaining to Navy Nurse Corps; treat Navy nurses same as other officers
3	37 U.S.C. Sec. 551	Change "wife" to "spouse"
3	50 U.S.C. Appl. Sec. 530(1)	Change "wife" to "spouse"
3	70 Stat. 124 (1980)	Change "wife" to "spouse" and "widow" to "surviving spouse"

9	10 U.S.C. Sec. 6915	Give equal treatment to male and female enlisted members to be appointed as student aviation pilots
9	10 U.S.C. Sec. 6964	Change "men" to "persons"
10	42 U.S.C. Sec. 411	Change to give same treatment in community property states as in other states
10	42 U.S.C. Sec. 413(a)	Delete last sentence of this section, as per HHS comments
11	42 U.S.C. Sec. 602(a)(19)(G)(iv)	Change "another" to "parent or other caretaker of a child" (HHS supports change to repeal offending section)
19	25 U.S.C. Sec. 933(c)	Change "wife" to "spouse"
19	25 U.S.C. Sec. 973(c)	Repeal. Provision is obsolete.
22	33 U.S.C. Sec. 909(b)	Give equal treatment to widows and widowers (DOL already administers this provision in a sex-neutral manner)
23	33 U.S.C. Sec. 909(c)	Change "widow or dependent husband" to "surviving spouse" (DOL also administers this provision in a sex-neutral manner)

23	33 U.S.C. Sec. 909(g)	Change "surviving wife" to "surviving spouse"
23	33 U.S.C. Sec. 914(j)	Delete portion referring to probability of remarriage of females, since there is no equivalent reference to males (DOL says change would have minor operational and no budgetary impact)
24	45 U.S.C. Sec. 231a (c)(4)	Change to treat divorced husbands and divorced wives alike
27	26 U.S.C. Sec. 1402(a) (5)(A)	Attribute income and deductions to the spouse carrying on the trade or business, or to both spouses if they are a partnership (This change has already been made in effect by Rev. Ruling 82-39)
27	18 U.S.C. Sec. 2421	Change "woman or girl" to "person"
28	18 U.S.C. Sec. 2422	Change "woman or girl" to "person"
28	5 U.S.C. Sec. 5561	Treat both spouses the same
29	12 U.S.C. Sec. 1715m(g)	Change "widow" to "surviving spouse"
29	15 U.S.C. Sec. 1052(c)	Change to "surviving spouse"
29	72 Stat. 838 (1980)	Change "widows" to "surviving spouses"
31	48 U.S.C. Sec. 1413	Change "widows" to "surviving spouses"

_____ Approve making change

_____ Disapprove making change

Three Statutes That Can Be Changed,
 But Only After Consultation with
 Social Security Administration, Health and Human Services
 or Immigration and Naturalization Services

<u>Page of Report</u>	<u>Statute</u>	<u>Nature of Change</u>
2	10 U.S.C. Sec. 1451	Change to apply to widows and widowers and change "mother's benefit" to "parent's benefit" -- but check with Social Security Administration for budgetary impact
_____	Approve making change	_____ Disapprove making change
_____	Refer to Attorney General for Final Decision	
11	42 U.S.C. 415(f)(5)	Current provision provides for recomputation of benefits for survivors of men who died between age 62 and age 65 using the date of death as the computation point. This provision only applies to men who would have reached age 65 before 1972 because age 62 is the computation point for women and for younger men. HHS warns of high cost if change is made.
_____	Approve making change	_____ Disapprove making change
_____	Refer to the Attorney General for Final Decision	

17

8 U.S.C. Sec. 1432

In practice, this provision allows for naturalization of an illegitimate child through the naturalization of the child's mother but not the child's father unless the father has legitimated the child. In effect, it discriminates on the basis of sex. In the view of the INS, however, there is a rational basis for the discrimination, specifically, the evidentiary problems in establishing the parent-child relationship are much greater in the case of a man and his illegitimate child than in the case of a woman and her illegitimate child. On the other hand, bureaucratic and procedural difficulties may not be sufficient reason for this sex-based discrimination involving U.S. citizenship.

_____ Approve making change

_____ Disapprove
making change

_____ Refer to Attorney General
for Final Decision

Nine Statutory Provisions That Can Be Changed
 Consistent with Administration Positions, But
 Change May Have or May Be Seen to Have
 Adverse Effect on Women

<u>Page of Report</u>	<u>Statute</u>	<u>Nature of Change</u>
21	29 U.S.C. Sec. 12	Delete requirement that President appoint woman as Director of DOL Women's Bureau
<input type="checkbox"/>	Approve making change	<input type="checkbox"/> Disapprove making change
31	36 U.S.C. Sec. 671	Delete requirement that one of eight national officers of AMVETS be a woman
<input type="checkbox"/>	Approve making change	<input type="checkbox"/> Disapprove making change
6	10 U.S.C. Sec. 8848	Different lengths of service for separation or retirement of male and female officers
<input type="checkbox"/>	Approve making change	<input type="checkbox"/> Disapprove making change
8	10 U.S.C. Sec. 5896 }	Separate promotion zones for male and females officers in the Navy, with separate treatment by promotion boards
8	10 U.S.C. Sec. 5897 }	
8	10 U.S.C. Sec. 5898 }	
8	10 U.S.C. Sec. 5899 }	
<input type="checkbox"/>	Approve making change	<input type="checkbox"/> Disapprove making change

29

22 U.S.C. Sec. 2151(k)

Delete requirement that the Foreign Relations Assistance Act be administered to give particular attention to programs that tend to integrate women into the national economies of developing countries. Currently, it requires that up to \$10,000,000 each fiscal year be used to encourage the participation and integration of women in the development process by supporting activities that increase their productivity and income earning capacity. It does not authorize a separate development assistance program for women.

_____ Approve making change

_____ Disapprove making change

30

22 U.S.C. Sec. 2225

Delete provision that requests the President to instruct U.S. representatives to international organizations to carry out their duties, so as "to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policymaking positions of such organizations." Also delete provision that requests the President to take into account the progress or lack thereof by such organizations in furthering the above goals in making U.S. contributions to these organizations.

_____ Approve making change

_____ Disapprove making change

Seven Statutory Provisions That Should Not Be Changed
Without Thorough Deliberation of Underlying Policy Issues

<u>Page of Report</u>	<u>Statute</u>	<u>Nature of Existing Program</u>
3	10 U.S.C. Sec. 2102	Military colleges enrolling women must provide opportunity for, but may not require, participation in military training
_____	Approve making change	_____ Disapprove making change
6	10 U.S.C. Sec. 8549	Female members of Air Force may not be assigned to aircraft engaged in combat missions
_____	Approve making change	_____ Disapprove making change
8	10 U.S.C. Sec. 6015	Women not to be assigned to duty on vessels or aircraft that are expected to be assigned combat duty
_____	Approve making change	_____ Disapprove making change

25 50 U.S.C. App. Sec. 453

All-male registration
for draft

_____ Approve making change

_____ Disapprove
making change

25 50 U.S.C. App. Sec. 455

Men selected for
training and service

_____ Approve making change

_____ Disapprove
making change

25 50 U.S.C. App. Sec. 456

Deferments relating to
men

_____ Approve making change

_____ Disapprove
making change

25 50 U.S.C. App. Sec. 466

Men in definition

_____ Approve making change

_____ Disapprove
making change



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

September 7, 1983

MEMORANDUM TO THE MEMBERS OF THE CABINET COUNCIL ON LEGAL POLICY

FROM: William French Smith
Attorney General

In recent months, the Administration has come under attack for an alleged insensitivity to the interests and rights of women. Our critics have charged us with lax enforcement and narrow readings of laws prohibiting sex discrimination; unwillingness to appoint women to significant judicial and executive positions; and failure to follow through on our promises to identify and eliminate gender-based discrimination in federal law.

Although there is room for improvement in almost any aspect of governmental activity, most of this criticism is unjustified. In terms of the enforcement of the laws against sex discrimination, the Administration's record surpasses that of the prior Administration. Moreover, in several cases before the Supreme Court, we have urged a broad reading of the antidiscrimination laws. President Reagan's record on the appointment of women to important Administration posts compares favorably with that of past Administrations. And this Administration has supported a broad range of initiatives -- legislative, regulatory, and administrative -- to eliminate discrimination against women. It is indeed ironic that so many of our achievements have gone unnoticed, while certain unfortunate press exchanges have been magnified into perceived substantive hostility to women's rights.

Some of our critics have attempted to frame public debate on the issue of sex discrimination solely in terms of the Equal Rights Amendment. By claiming that the ERA is the benchmark against which all other antidiscrimination measures must be tested, the Administration's opponents have charged that our opposition to the ERA represents a fundamental antipathy towards all efforts to eliminate sex discrimination. Unfortunately, many now begin their analysis of the Administration's record with the assumption that we oppose women's rights.

The correction of this misperception will not occur overnight. Nevertheless, giving a full account of what the Administration has accomplished in the area of eliminating discrimination against women is an important first step. I am confident that, once our record becomes known, most Americans

will recognize the sincerity of our efforts and the scope of our achievements.

I. THE ADMINISTRATION RECORD

A. Enforcement Record of the Department of Justice

The Department of Justice has achieved an exemplary record of enforcement of federal laws prohibiting sex discrimination. The Department has filed 18 cases alleging sex discrimination in employment since January 21, 1981, exceeding the enforcement record compiled by the last Administration during a comparable period. 1/ The Department has also brought suit to prevent denial of credit based on sex or marital status and discrimination against women in educational opportunities. Finally, the Justice Department has vigorously advocated positions on behalf of women's rights in a number of important cases before the Supreme Court.

1. Employment Discrimination

In the employment area, the Department has moved forcefully against public employers who have discriminated on the basis of sex. The Department has filed 18 new lawsuits, and has settled or litigated to a conclusion six employment cases filed during the last Administration. See Tab 1.

The Department filed suit alleging that state police departments in Rhode Island, New Hampshire, Vermont, Massachusetts, Maine, North Little Rock, and New York City discriminated in employment on the basis of sex. In each case, the Department negotiated a consent decree requiring the state to use nondiscriminatory selection criteria and to engage in active efforts to recruit women. The Department obtained similar consent decrees in discrimination suits against the Maryland Transportation Authority, the Clayton County (Ga.) Board of Education, Burlington County (N.J.) College, the Virginia Department of Highways, the Lancaster County (Va.) Sheriff's Office, and the Little Rock (Ark.) police and fire departments. In several of these suits, the Department also obtained back pay awards for the victims of discrimination.

The Department is currently litigating suits against a bank that has a "men only" lunchroom; against the Buffalo Board of Education for violations of the Pregnancy Disability Act; and

1/ Under this Administration, 21 employment discrimination cases have been filed, 18 of which contained allegations of sex discrimination. During a comparable period of time in the Carter Administration, 17 cases were filed, 16 of which contained allegations of sex discrimination.

against law enforcement authorities in Suffolk County, New York, and Patrick County, Virginia, for sex-discriminatory hiring practices. The Department continues to bring new sex discrimination suits, most recently in a complaint filed August 30, 1983, against the City of Gallup, New Mexico.

In addition, the Department has settled or litigated to a conclusion six cases filed during the last Administration involving sex discrimination. Last year, the Department achieved the largest Title VII recovery against a public employer in the Department's history, obtaining \$2.75 million on behalf of 685 women and blacks who were victims of discrimination.

The Department has intervened in Williams v. City of New Orleans, in support of classes of female, Hispanic and white police officers who opposed entry of a consent decree containing a one-to-one promotion quota favoring black officers. The case is under submission to the Fifth Circuit Court of Appeals, sitting en banc. Finally, in the wake of the Supreme Court's holding in Newport News v. EEOC, discussed below, Assistant Attorney General Reynolds has authorized the filing of seven cases alleging discrimination under the Pregnancy Disability Act.

2. Discrimination in the Extension of Credit

The Department has also moved decisively to enforce the protections of the Equal Credit Opportunity Act, attacking discrimination in the extension of credit based on sex or marital status. In this area we have filed two major cases, United States v. AVCO Financial Services, Inc. and United States v. Central State Hospital Credit Union. Two other cases against major credit companies are currently under investigation.

3. Discrimination in Educational Opportunities

The Department has participated in four suits alleging discrimination in provision of educational opportunities.

Two suits have been brought under Title IX of the Education Amendments Act of 1972, which prohibits sex discrimination in any educational program receiving federal financial assistance. In Zentgraf and United States v. Texas A&M, a case brought during the Carter Administration but under negotiation in this Administration, we challenged the university's maintenance of a "Corps of Cadets" in which women's activities are severely curtailed on account of sex. Another suit, Pavey and United States v. University of Alaska, was settled by consent decree in October 1981. There we alleged that Title IX precluded the University from discriminating on the basis of sex in athletic programs. The University agreed to maintain equal facilities and to provide for equal financial aid, recruitment, and publicity in its male and female athletic programs.

In an ongoing suit, United States v. Massachusetts Maritime Academy, brought in 1976 during the Ford Administration, we challenged the academy's maintenance of a males-only admissions policy under Title IV of the Civil Rights Act of 1964. As a result of the suit, the academy has opened its admissions to women, but litigation has proceeded regarding the nature of its admissions criteria and recruitment practices. We are awaiting a decision in that case. The Department also intervened in Canterino v. Wilson, a case against the Kentucky Prison System. The court held that prison authorities had unconstitutionally discriminated against women in educational and training programs.

4. Litigation in the Supreme Court

The Department has repeatedly advocated positions in support of women's rights in cases before the Supreme Court. In the 1981 Term, the Administration argued, albeit unsuccessfully, in Ford Motor Co. v. EEOC that an employer's liability for back pay under the sex discrimination provisions of Title VII was not extinguished by an offer of employment which did not compensate for seniority. Last Term in North Haven Board of Education v. Bell, the Department argued successfully that Title IX reaches and prohibits discriminatory employment practices. And in Newport News v. EEOC, another case argued and decided last Term, the Department successfully contended that an employer could not deny pregnancy disability benefits to the spouse of a male worker when other types of disability benefits are extended to spouses. This is a particularly favorable decision for wives of working husbands who do not have disability benefits through their own employment.

The Department has also taken important positions in furtherance of women's rights in amicus curiae briefs in two major cases before the Supreme Court: TIAA-CREF v. Spirt and Hishon v. King & Spaulding. Last Term the Department argued in Spirt that Title VII of the 1964 Civil Rights Act prohibits an employer from providing unequal pension benefits for men and women employees. The Supreme Court adopted our position in a similar case before it, Norris v. Arizona. In an employment discrimination case that will be heard next Term, Hishon v. King & Spaulding, the Department is arguing that Title VII prohibits law firms from refusing to consider women associates for partnership on an equal basis with their male counterparts.

Finally, in Grove City College v. Bell, another case pending in the Supreme Court, the Justice Department has argued that when the federal government provides grants and loans to students attending a college, the college's financial aid program receives "Federal financial assistance" and is subject to the nondiscrimination requirements of Title IX. This is an aggressive argument in a case of first impression before the Supreme Court. Although the Department has been criticized by women's groups for failing to argue that Title IX applies to the entire institution under such circumstances, the language and

legislative history of the statute and the Supreme Court's opinion in the North Haven case all indicate that Congress intended Title IX to be "program-specific."

B. Administration Initiatives

1. Child Support Enforcement

In 1975, the Congress established the Child Support Enforcement Program (CSEP) to foster family responsibility and reduce dependence by families with absent parents on the welfare system. This program was modeled after the highly successful initiative launched in California when President Reagan was governor. The CSEP requires each state to have an approved program of child support enforcement, including measures to establish paternity, locate missing fathers, establish or modify child support orders, and collect court-ordered support payments. The federal government pays much of the cost and provides support services, policy direction, and technical assistance.

The Administration has improved the CSEP in several ways. For instance, the Administration obtained legislation permitting states to make collections for past due child support to AFDC families by having the IRS make offsets to federal tax refunds. \$168 million was collected in 1982 through this initiative. The Administration created an interagency working group under the Cabinet Council on Legal Policy which has taken several steps to strengthen federal enforcement assistance, such as providing access to federal records not previously available to locate absent parents. In addition, the Department of Health and Human Services has undertaken several initiatives to strengthen state and local enforcement programs, including providing technical assistance for collections in major urban areas, assisting states in establishing necessary automated systems, and strengthening auditing and informational programs.

The President pledged in his State of the Union Address this year to take further action to promote enforcement of child support laws. In fulfillment of that promise, the Administration recently proposed the "Child Support Enforcement Amendments of 1983." This bill (S. 1691) would require that states adopt several practices that have proven effective in increasing support collections. States would be required to: (1) impose mandatory wage withholding on absent parents more than two months behind in court-ordered child support payments; (2) intercept tax refunds to absent parents who are behind in court-ordered child support; (3) develop procedures to expedite civil hearings on court-ordered child support; and (4) impose fees on nonwelfare parents who use this court-ordered child support collection program.

In addition, the bill would provide financial incentives for states to broaden and improve their child support

enforcement efforts. The federal government currently pays 70% of state administrative costs, and then pays states bonuses based upon their AFDC collections. The Administration's bill would provide for incentives based upon both AFDC and non-AFDC performance. Although the percentage of state administrative costs reimbursed by the federal government would be reduced from 70 to 60 percent, total incentive payments would be increased by about \$83 million over what would be available under the present incentive structure. This system will reward states that establish superior performance records in collecting on behalf of both AFDC and non-AFDC families.

Finally, the President sought to focus public attention on the important problem of child support enforcement by declaring August 1983 as "National Child Support Enforcement Month".

2. Child Care

The Economic Recovery Tax Act of 1981 contained several provisions to ease the financial burden of child care. First, the Act substantially increased child care tax credits to working parents. For parents who earn less than \$10,000 per year, the credit was increased from \$400 to \$720 per child. The Act also created an incentive for employers to include prepaid day care in their employee benefit packages, by making employer contributions for child care nontaxable to employees.

Consistent with a promise made by the President in his State of the Union Address, the Administration is also proceeding with several initiatives to encourage better private child care. First, the Women's Bureau of the Department of Labor, in conjunction with the Rockefeller Foundation, is funding four demonstration projects to induce employers to provide day care services for working women. The President's Office on Private Sector Initiatives has sought to create a more informed environment in the business community regarding day care alternatives. The White House-based "50 States Project" seeks to identify unnecessary state and local restrictions that inhibit private child care and to encourage local governments to relax those restrictions. Finally, the Administration has encouraged states to use workfare and work-study programs to provide child care.

3. Tax Reform and Other Economic Initiatives

The Administration has implemented a broad array of tax and economic reforms in an effort to eliminate economic discrimination against women. For instance, the Economic Recovery Tax Act greatly reduced the "marriage tax penalty" applicable to two-earner couples by allowing a partial deduction from married couples' combined salaries. The Act also permitted one-earner couples to contribute more to IRAs than individuals. The reduction of estate tax burdens is also of particular benefit to women, since they outlive men by an average of eight years.

Other reforms have included institution of a sex-neutral definition of poverty to ensure that women are evaluated by the same assistance criteria as are men; enactment of a law permitting state courts to divide military retirement benefits in divorce settlements; and enactment of a law authorizing federal agencies to adopt "flexitime" schedules for their employees on a permanent basis.

4. Social Security Reform

On April 20, 1983, President Reagan signed into law legislation (P.L. 98-21) to improve the long and short-term financial condition of the Social Security system. This reform legislation also contained a host of provisions, summarized below, aimed at eliminating economic discrimination against women.

First, Social Security benefits for widows and divorced women were increased. A major change in eligibility provisions will allow divorced spouses who apply for benefits based on a former spouse's earnings (usually women) to be independently eligible for Social Security benefits at age 62. Under previous law, a dependent divorced spouse could not apply for benefits until her former spouse applied, regardless of age. In addition, benefits previously continued only for surviving spouses who remarried after age 60 were extended to younger disabled widow(er)s and disabled, surviving divorced spouses.

Second, certain sex-based distinctions were eliminated. Many of these distinctions had been voided by court decisions. Illegitimate children are eligible for benefits based on their mother's earnings; under previous law, they were eligible for benefits only on their father's earnings. Two provisions will make benefits based on a wife's earning record equal to those based on a husband's earning record: fathers who have in their care an entitled child under age 16 and aged divorced husbands (as well as aged or disabled divorced surviving husbands) may receive benefits on the same basis as similarly situated wives or ex-wives. Childhood disability benefits will be continued for women who marry as well as for men, and Social Security benefits will be continued to an individual, regardless of sex, who is receiving dependents' or survivors' benefits, whether or not his or her spouse is eligible for such benefits.

5. Welfare and Job Placement Reform

This Administration has acted to eliminate sex-based discrimination in the provision of welfare benefits and in federally-supported work incentive programs. The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), signed into law by President Reagan on August 13, 1981, provided that federal Aid for Families with Dependent Children funds would be available to families whose "principal earner" was unemployed. Previously, such aid had only been available to families when the father was

unemployed. On October 13, 1982, the President signed into law amendments to the Job Training Partnership Act (P.L. 97-300), giving job placement preference to "unemployed parents who are the principal earners" of a family. As previously formulated, the Act had given job placement preference to "unemployed fathers." In short, welfare benefit and job placement statutes that discriminated against single-parent families (often headed by women) have been reformed under the Reagan Administration.

6. Initiatives to Assist Crime Victims

The efforts of the Department of Justice to improve the treatment of victims of crime include a number of initiatives designed to remedy problems important to women. For example, in response to the recommendations of the President's Task Force on Victims of Crime, the Department is creating a Family Violence Task Force under the direction of the Attorney General. This group will be commissioned to study the problem of family violence in all its manifestations and to suggest ways in which government can be more effective in protecting women and children from this kind of assault. In addition, the Justice Department and the FBI are initiating joint conferences to improve the investigation and prosecution of sexual assault crimes and the treatment of victims of such crimes.

7. Appointment of Women to High-Level Positions

This Administration is the first in history to appoint a woman to the United States Supreme Court. President Reagan's nomination of Sandra Day O'Connor, in fulfillment of a promise made in his inaugural address, was a critical step towards true equal opportunity in consideration of qualified persons for this nation's highest court. The President has also appointed five women as federal district court judges and one woman to the new United States Claims Court, for a total of seven appointments of women to the federal bench. Four additional women are currently in the process of being nominated to positions on district courts.

President Reagan has also demonstrated his commitment to women's equality and his respect for their ability by appointing more women to full-time top policy making positions during his first two years in office than any of his predecessors during a similar period. By the end of January 1983, he had selected 99 women, compared to only 91 appointed by the previous Administration in its first two years. There are three women in the Reagan cabinet, more than at any other time in U.S. history.

In all, President Reagan has appointed women to more than 1200 important positions in the White House and throughout the executive branch, including 181 to the Senior Executive Service, 584 to Schedule C positions at a level of GS-13 or higher, and over 325 to part-time advisory boards.

In addition to Justice O'Connor, the President's most significant female appointments include United Nations Ambassador Jeanne Kirkpatrick, Transportation Secretary Elizabeth Dole and Health and Human Services Secretary Margaret Heckler. Women also head the Peace Corps (Loret Ruppe), the Consumer Product Safety Commission (Nancy Steorts), the U.S. Postal Rate Commission (Janet Steiger), and the Federal Labor Relations Authority (Barbara Mahone).

C. Task Force on Legal Equity for Women ^{2/}

1. Executive Order 12336

Executive Order 12336 of December 21, 1981 established the Task Force on Legal Equity for Women "to provide for the systematic elimination of regulatory and procedural barriers which have unfairly precluded women from receiving equal treatment from Federal activities." See Tab 2. Section One of the Order provides that the President shall appoint the Task Force members from among nominees of the heads of 21 specified executive agencies, each of which is to have one representative on the Task Force.

Section Two of the Order provides that each Task Force member is responsible for coordinating and facilitating in his or her respective agency, under the direction of the head of the agency, the implementation of changes ordered by the President in sex-discriminatory federal regulations, policies, and practices. The Task Force is charged with making "periodic reports" to the President on the progress made in implementing the President's directives.

In addition, Section Two of the Order directs the Attorney General to complete a review of federal laws, regulations, policies, and practices which contain language that unjustifiably differentiates, or effectively discriminates, on the basis of sex. The Attorney General is directed to report his findings to the President on a quarterly basis through the Cabinet Council on Legal Policy.

2. Progress Report

The recent public criticism of the Task Force derives primarily from a misperception of the Task Force's mandate as set forth in Executive Order 12336. In fact, the Task

^{2/} The Task Force is to be distinguished from the "50 States Project" established by the President in 1981. This Project, based within the White House, seeks to encourage governors to identify and correct state laws and regulations that discriminate against women.

Force was intended not to formulate substantive policy initiatives, but to perform the important but limited task of cataloguing sex-biased language in federal laws and regulations so that such sex bias could be eliminated.

On June 28, 1982, the Task Force prepared, and the Attorney General transmitted to the Cabinet Council on Legal Policy, the First Quarterly Report. The report contained: (1) a list of federal statutes reflecting sex bias (based upon a 1976 computer search performed by President Carter's Task Force on Sex Discrimination); (2) a discussion of selected women's issues; and (3) a summary of the progress made by federal departments and agencies in correcting discrimination in laws and regulations under their respective jurisdictions.

The Task Force's Second Quarterly Report, transmitted on December 3, 1982, announced that the Department of Justice had authorized an updated computer-assisted search of the U.S. Code and Code of Federal Regulations and was in the process of coordinating new agency review efforts. These tasks were reported to be "well underway."

The Third Quarterly Report of the Task Force has been transmitted to the CCLP, but has not yet been acted upon. This is the final report on federal statutes containing distinctions based on sex. The listing is the product of the most comprehensive and thorough computer-assisted review of the U.S. Code ever undertaken to identify gender-based distinctions. The report also summarizes the progress made by agencies in reviewing their laws, regulations, policies, and practices for sex-based distinctions.

Part of the work performed by the Task Force to date has been embodied in legislation. On October 1, 1982, Senator Dole introduced a bill to amend the U.S. Code to eliminate some 64 gender-based distinctions, most of which were identified by the First Quarterly Report of the Task Force. President Reagan wrote a letter on September 27, 1982, endorsing Senator Dole's proposal. This bill has been re-introduced in the 98th Congress as S. 501. We understand that the Senate Judiciary Committee's Subcommittee on the Constitution plans to report out S. 501 on September 16.

II. POSSIBLE ADMINISTRATION INITIATIVES

A. Amendment of Federal Statutes that Contain Sex-Based Distinctions

As noted above, Senator Dole's bill to eliminate sex-based distinctions in the United States Code (S. 501) is substantially based upon the findings of the First Quarterly Report of the Task Force on Legal Equity for Women. Since S. 501 was introduced, however, the Task Force on Legal Equity for Women

has issued its Third Quarterly Report to the President through the CCLP. This Report identifies 65 additional federal statutes (or related groups of statutes) that contain sex-based distinctions not covered by the Dole bill. See Tab 3. I would propose that the Administration draft an amendment to the Dole bill to amend most -- although not all -- of the additional provisions identified in the Third Quarterly Report. 3/

By far, the majority (47) of these 65 laws are older provisions that define the persons they affect by terms reflecting gender (such as "widows" and "mothers") rather than by sex-neutral terms (such as "surviving spouses" and "parents"). Although many of these laws are obscure and somewhat inconsequential, their continued existence in the United States Code could adversely affect some women. I would recommend that we seek to have all of these laws amended to eliminate references to gender.

The remaining 18 statutory provisions make distinctions among men and women that are more substantive. Eleven of these statutes contain distinctions that are generally intended to favor women, such as the law (29 U.S.C. § 12) requiring that the Director of the Women's Bureau of the Department of Labor be a woman and the statute (36 U.S.C. § 671) that stipulates that at least one of the eight national officers of AMVETS must be a woman. With the exception of two laws that I think should be studied more closely, I would recommend that this group of statutes be amended to eliminate gender-based distinctions. 4/

3/ The Third Quarterly Report of the Task Force identifies a total of 140 statutes (or related groups of statutes) reflecting sex-based distinctions. 24 of these statutes have already been amended to eliminate the distinctions. Nineteen of these changes occurred under this Administration, and most resulted from legislation we sponsored. Of the 116 remaining statutes containing sex-based distinctions, 51 would be corrected by the current version of the Dole bill.

4/ These two laws are found in Titles 10 and 22 of the United States Code. The first set of statutes (10 U.S.C. §§ 5896-5899) establish separate promotion boards for male and female naval officers. Although the existence of separate promotion boards may indicate discrimination between the sexes, the statutes on their face do not discriminate between men and women in promotions or other personnel practices. Accordingly, it may be impossible without further study to determine what the impact of these statutes has been. A second pair of statutes, 22 U.S.C.

Finally, there are two sets of statutory provisions (seven statutes) of major import that I would recommend against amending at this time. These are statutes that reflect very fundamental and reasoned decisions to distinguish between women and men. One set of provisions establishes prohibitions on the use of women soldiers in combat. A second set of provisions excludes women from the requirement of draft registration. It is possible that Congress, upon further consideration, will decide to reverse itself on these statutes and to change these long-established policies. However, we should not recommend amendment of these laws without a thorough, nationwide debate over the extent to which we want to obliterate all distinctions between the sexes. 5/

B. Legislative Proposals

In several areas relating to women's rights, the Administration has been asked to take a position on pending legislation or has considered introducing legislation of its own. For the most part, these measures are within the jurisdiction of, and have been considered by, the Cabinet Council on Human Resources and the Cabinet Council on Economic Affairs. Within the context of those two groups, I would recommend that the Administration review its position on these proposals and consider the desirability of formulating initiatives or supporting existing bills. The following list is illustrative of these issues, not exhaustive.

1. Sex Bias in Pensions and Insurance

a. Proposals to Prohibit Use of Sex-Based Actuarial Tables in Calculating Pensions

The Administration is committed to the elimination of discrimination against women in pension programs. In his State

4/ §§ 2151(k) and 2225, generally encourages the integration of women into the national economies of developing nations, and stipulates various actions that the government should take toward this end. While these provisions clearly contain sex-based distinctions, their focus on foreign aid and foreign relations suggests that they, too, be given further study.

5/ I also would recommend against the amendment of 25 U.S.C. § 342 at this time. This statute allows the resettlement of the Southern Ute tribe by a majority vote of the male tribe members. Although this statute clearly is discriminatory on its face, as a matter of the United States' relations with the Southern Ute tribe, it should not be amended until there has been an opportunity to consult with the tribe.

of the Union Address this year, President Reagan stated that the Administration would take action to remedy inequities in pensions. A press release accompanying the address stated that the Administration would "submit legislation to remedy inequities based on sex in employer pension systems."

We have taken a number of steps to implement these goals. Last Term, the Department filed a brief with the Supreme Court in TIAA-CREF v. Spirt arguing that Title VII prohibits the use of sex-segregated actuarial tables to calculate employee retirement benefits. Our position was adopted by the Supreme Court in June in a second, similar case, Arizona v. Norris.

During the past several months, various working groups within the government also have been meeting to discuss possible legislation in the pension area. To a substantial degree, the Supreme Court's decision in Norris has preempted the need for remedial legislation. However, some unresolved questions remain as to how the sex-neutral requirements of Norris are to be implemented. The Administration should consider whether clarifying legislation or regulations might be appropriate, or whether these questions are better left to the courts.

b. Proposals To Prohibit All Sex-Based Insurance Classifications

Several bills have already been introduced in Congress which would prohibit use of sex-based distinctions not only with respect to pensions, but all other forms of insurance as well. These bills would have dramatic practical, legal, and economic ramifications which may be undesirable and, in some respects, disadvantageous to women.

2. Other Pension Equity Issues

Title I of the Economic Equity Act (S. 888) would amend a number of provisions in ERISA and the Internal Revenue Code governing private pension plans and civil retirement plans. Certain provisions for private pension reform would aid "women as workers" -- for example, by lowering the age of participation in pension plans from 25 to 21 and modifying the "break-in-service" rules to give credit for employer-approved maternity or paternity leave. Other provisions would aid "women as spouses" -- for instance, by promoting election and payment of survivor's benefits and by establishing pensions as a legitimate property right. S. 888 would also entitle persons married to civil service employees for at least 10 years the right to a pro rata share of the benefits earned during marriage, and mandate survivor's benefits in the absence of a waiver by the spouse and former spouse. The Retirement Equity Act (S. 19) contains provisions similar to, although not identical to, provisions in Title I of S. 888.

In testimony last month before the Senate Finance Committee, John Chapoton, Assistant Secretary of the Treasury for Tax Policy, stated that the Administration supported "most" of the pension provisions of both bills, but suggested that certain specific changes were necessary to "assure that we aid the maximum number of women and that the administrative burden on pension plans is minimized."

3. Dependent Care

As noted above, the Administration has taken some significant steps to encourage availability of dependent care. Title II of S. 888 contains several further proposals in this area. First, the bill would treat a greater percentage of child care expenditures as necessary business expenses. Second, the bill would make the dependent care tax credit refundable for those whose income is so low that they lack sufficient tax liability to make use of the credit. Third, the bill would clarify that child care facilities fulfilling certain specified criteria qualify for tax-exempt status under §501(c)(3) of the Internal Revenue Code. Finally, the bill would establish a "seed money" assistance program to establish child care information and referral services. The Cabinet Council on Economic Affairs has opposed supporting Title II on the grounds that it would increase the deficit by \$.7 billion a year.

4. Social Security Amendments

Several legislative proposals have been introduced in the 98th Congress aimed at further eliminating sex-based discrimination under the Social Security system. These proposals would: (1) establish a working spouse benefit payable in addition to the dependent spouse benefit to recognize the Social Security tax contributions of second earners (H.R. 203); (2) increase from five to ten the number of years of low earnings dropped in computing the covered earnings history for a worker caring for small children at least six months out of the year (H.R. 2741); (3) reduce from ten to five the number of years of marriage that are necessary before a dependent divorced spouse is eligible for benefits on an ex-spouse's earnings record in the case of late-life divorces (H.R. 338); (4) allow disabled widows to receive benefits at any age (H.R. 2743); (5) provide transitional benefits for widowed persons at the age of 50 (a majority are women) to allow them to adjust to the loss of the deceased spouse's income (H.R. 2745); and (6) allow a husband and wife to combine their earnings during marriage for Social Security benefit purposes upon retirement or divorce, and to equalize the benefits payable on retirement, if they have not so elected (H.R. 337, H.R. 2742, and S. 3).