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HEW

**September 3, 1974**

**Dear John:**

**So much has happened during the early weeks of my new assignment that I have been slow in responding to your good letter.**

**I truly appreciated your warm congratulations and expressions of high confidence. I thank you very much and look forward to more occasions when we will be working together.**

**Best regards.**

**Most sincerely yours,**

**Philip W. Buchen  
Counsel to the President**

**Mr. S. John Byington  
Deputy Director  
Office of the Secretary  
Office of Consumer Affairs  
Department of Health, Education,  
and Welfare  
Washington, D. C. 20201**



HEW

Thursday 3/13/75

FYI -----

10:00 Ken is sending this back to Jerry Jones  
with a note suggesting supporting Option 3.

O/K



ACTION MEMORANDUM

THE WHITE HOUSE

WASHINGTON

LOG NO.:

3/13  
Sent to  
Ken  
HEW

Date: March 12, 1975

Time: 8:00 p. m.

FOR ACTION: Bill Baroody  
Phil Buchen

cc (for information):

Jim Cannon  
Jack Marsh  
Bill Seidman  
Alan Greenspan  
Max Friedersdorf

FROM THE STAFF SECRETARY

DUE: Date: Thursday, March 13, 1975

Time: 10:00a. m.

SUBJECT:

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

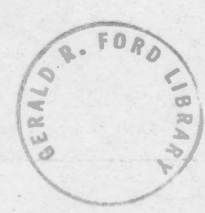
Draft Reply

For Your Comments

Draft Remarks

REMARKS:

We apologize for the short time return requested but as you will note the President's decision is needed by tomorrow in order for HEW to prepare testimony and draft legislation. Unfortunately, we received the memorandum at 8:00 p. m., March 12.  
Thank you.



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry H. Jones  
Staff Secretary





EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

RECEIVED 6:30 PM  
March 12, 1975

DECISION

MAR 12 1975

MEMORANDUM FOR THE PRESIDENT

SUBJECT: HEW Support for Training of Biomedical and Behavioral Researchers

In the attached memorandum (Attachment A), Secretary Weinberger appeals your 1976 Budget decisions on Federal subsidies for training biomedical and behavioral researchers. The 1976 Budget called for:

- in 1975, no new predoctoral support programs and a limit on institutional training grants-- as opposed to individual fellowships--to "instances in which there is a need to create training environments that do not currently exist"; and
- in 1976, support limited to 1,100 individual postdoctoral fellowships, and no new predoc-  
toral support or institutional training grants.

HEW needs your decisions by Thursday, March 13, in order to draft legislation and prepare testimony for Senate hearings on March 17.

Background. The appropriations authorization for HEW programs that subsidize the training of biomedical and behavioral researchers expires June 30, 1975. This legislation was the response of Congress to the Administration's proposal in 1974 to eliminate completely all HEW support for training researchers.

The 1974 budget decision was based on the still valid concerns of:

- the inequity of providing substantial Federal subsidies (\$200 million annually) for students in the life sciences, but not in other fields;



- the apparent surplus of qualified researchers as shown by increasing numbers of "approved but unfunded" research proposals;
- the absence of specific programming objectives for training in relation to research needs; and
- the existence of general predoctoral student support programs in the Office of Education.

While other agencies have gotten out of the support for training researchers, HEW has not. Attachment B contains a more detailed staff paper on this issue.

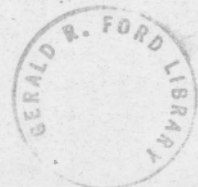
The 1976 Budget limit of 1,100 new fellowships was selected because it brings the number of trainees roughly in line with the number of new researchers supported annually on research grants. Individual fellowship support was chosen as consistent with the Administration's general higher education policy of concentrating support on students, with tuition to reflect institutional training costs. Moreover, postdoctoral support does not further increase the already excess supply of researchers. This approach also avoids institutions' becoming as directly dependent on Federal funds for faculty salaries.

Options: We see three options:

-- Option 1: Reaffirm the 1976 Budget decision--no new predoctoral training support in 1975 and 1976, 1,100 individual postdoctoral fellowships in 1976 and no institutional training grants.

-- Option 2: Fund training programs on the same basis as in prior years in both 1975 and 1976--HEW will determine levels of predoctoral and postdoctoral support and the extent to which institutional training grants are employed.

-- Option 3: Fund training programs on the same basis as in prior years in 1975 only. For 1976, limit Federal support to the 1,100 individual postdoctoral fellowships.



Considerations: We believe the following considerations bear upon your decision:

- for 1975, Congress has apparently rejected your \$32 million rescission proposal which reflected no new predoctoral support and limiting institutional training grants, and the appropriations will have to be spent;
- Secretary Weinberger's memorandum indicates his desire to use predoctoral support and institutional training grants as "excellent mechanisms for having an influence over the flow of researchers into priority areas." The 1,100 postdoctoral awards limit "prevents me from managing our training efforts in the most efficient manner" and "... it is totally unrealistic to expect Congress to accept this restrictive approach";
- in the past, HEW's "shortage specialties" have been practically the same as before the shortage concept was introduced. This reflects lack of agreement on a meaningful concept of "shortages"; and
- the supply of Ph.D. life scientists is growing at an unprecedented rate. The Labor Department has tentatively forecast a surplus of Ph.D.'s in the life sciences for the 1976 - 1980 period ranging from 15% to 25%.

Recommendation: We recommend that you approve Option 3, largely reflecting:

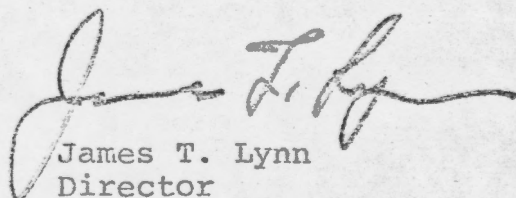
- a desire to cooperate, in light of the rejection by Congress of the Administration's rescission proposals affecting support of research training;
- the program merits, i.e., the considerations of equity and supply, underlying the 1976 budget are still valid; and
- submission of an Administration bill for 1976 may force a discussion in Congress of the issue on the substantive program merits and equity considerations.





Decision:

- Option 1: Reaffirm the training decisions announced in the 1976 Budget.
- Option 2: Allow HEW discretion in 1975 and 1976 within the final appropriation levels (HEW request).
- Option 3: Allow HEW discretion within the 1975 appropriation level. In 1976, reaffirm the training decision to limit support of 1,100 postdoctoral fellowships (OMB recommendation).

  
James T. Lynn  
Director

Attachments



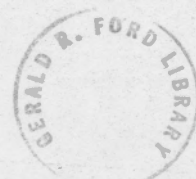
MAR 5 1975

MEMORANDUM FOR THE PRESIDENT

The Department of Health, Education and Welfare's biomedical and behavioral research training programs are authorized by The National Research Service Award Act. This Act, which was enacted in July 1974, authorizes appropriations in only FY 1975 for pre- and post-doctoral fellowships and institutional awards. Consequently, the Department will be requesting an extension of the appropriation authorization for FY 1976 and beyond. Mr. Ash's legislative directive to the Department specified that we seek amendments in this Act to support only post-doctoral research fellows through national competition. This legislative directive was consistent with current FY 1975 budget policy to eliminate pre-doctoral fellowships and to limit new institutional awards, and with the FY 1976 budget proposal of making new awards only for 1100 post-doctoral fellows.

While I agree that we should restrict the Federal effort in research training, the OMB directive seriously damages the Department's ability to manage the programs efficiently and to assure the necessary number of qualified biomedical and behavioral researchers. Over the last few years, I have been restructuring the Department's research training support. The Department, particularly through the National Institutes of Health, has emphasized post-doctoral fellowships and increasingly has targeted institutional awards and pre-doctoral fellowships in those research areas in short supply.

This redirection was in response to our perception of changing research manpower needs. In the 1960's the rapid growth in research grants necessitated substantial and wide-spread institutional research training development awards. While an insufficient total number of researchers is no longer the problem, we believe some institutional awards are still needed to develop research training capacity in new and very promising research areas and in areas of chronic short supply of qualified researchers such as epidemiology, genetics and nutritional science. These are crucial areas for a comprehensive Federal research effort. However, as they are less attractive to young researchers and training institutions, special Federal institutional awards are warranted. Likewise, we believe that pre-doctoral training support is an important



component of the total research training program. Since the Alcohol, Drug Abuse and Mental Health Administration supports pre-doctoral fellows for their thesis research, such support provides an excellent mechanism for having an influence over the flow of researchers into priority areas.

Institutional awards and pre-doctoral fellowships should be directed only for those research areas for which it can be shown that additional training capacity is needed. Post-doctoral fellowships should not be so restricted. They should be awarded on merit through national competition with priority given to shortage areas. On this latter point we have no disagreement with the OMB guidance in any respect.

While we have no argument in general with OMB's objective to restrict substantially pre-doctoral training and institutional awards, their request that we submit to Congress legislative amendments that would limit research training awards only to post-doctoral fellowships and the related budget decision to restrict new awards in FY 1976 to post-doctoral fellows prevents me from managing our training efforts in the most efficient manner. In addition, it is totally unrealistic to expect the Congress to accept this restrictive approach. Accordingly, I request that you permit the Department to submit amendments that allow institutional awards and pre-doctoral fellowships limited to those scientific areas in which existing training capacity is substantially inadequate and in which we cannot expect rapid improvement without Federal support.

Both the legislative and appropriations committee in Congress have indicated continuously their intent to maintain such funding. If we do not present a realistic position, we are unlikely to make progress toward agreed objectives. The Senate Subcommittee on Health has invited us to testify on March 11 as to our position on the extension of this legislation. I believe my approach represents a method of constraining the Federal role and Federal training expenditures.

Finally, I request that as a result of this legislative decision the Department be permitted to allocate the FY 1976 budget between the various research training programs in order to assure the most efficient use of Federal dollars. I emphasize that no additional funds are being requested.

*Sam Keisler*  
Secretary





Department of Health, Education, and Welfare

Subject: Biomedical and Behavioral Research Training

Background. In the 1974 Budget, the Administration proposed to phase out Federal support for the training of biomedical and behavioral researchers by the National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA). This decision was based on several considerations, including:

- the inequity of providing Federal subsidies for students in the biomedical or behavioral sciences while graduate students in other fields do not benefit from special Federal support;
- the lack of programming objectives for training, e.g., need or "shortages" in relation to research plans;
- the inappropriateness of federally subsidizing medical clinical specialty training which increases personal income potential of physician specialists, when the Federal priority is on primary care;
- the apparently adequate supply of research scientists as shown by the continuing surplus of "approved, but unfunded" research proposals; and
- the existence of general graduate student support programs in the Office of Education.

Training programs were begun in 1947, but expanded sharply in the 1960s. Because of their large institutional support components, they are considered vital by most research institutions and medical schools. Since 1967, NIH and ADAMHA research training support has averaged about \$200 million annually. Support is made to the pre- and post-Ph.D and M.D. levels in all fields--life sciences, physical sciences, social sciences and the arts and the humanities. Generally, it is concentrated in life sciences disciplines and takes the form of institutional grants or individual fellowships.

Congress responded to the Administration proposal by introducing specific mandatory authorizing legislation for the research training programs. Ostensibly, in an



attempt to "head off" the legislation, HEW initiated a new more limited program of postdoctoral individual fellowships in designated "shortage" specialties. The selection of individual postdoctoral support was based on the existence of other sources of predoctoral student support and the lower attrition rate of students from research careers, once they have made a career commitment signified by a doctorate. Individual support is consistent with the Administration's higher education policy of concentrating support on students; it costs less than institutional award and it maintains greater Federal flexibility, since institutions do not become dependent on these funds directly for faculty salaries.

Congress was, however, not deterred by the new fellowship program and enacted the "National Research Service Award Act," which was approved on July 12, 1974. It authorized pre- and postdoctoral individual and institutional support for 1975 only and added a number of program reforms such as a three-year limit on support and a service or payback requirement. The Act also limited the award of training grants or fellowships after July 1, 1975, to specialty fields designated as "in need of training" by the National Academy of Science according to a required study of the research manpower situation.

Key Facts. The 1976 Budget proposes to limit support in 1975 to postdoctoral fellowships, i.e., no more predoctoral training grants, and, in 1976, to limit the program to 1,100 postdoctoral fellowships as a "national prize" program for the most meritorious applicants, as determined through nation-wide competition. In 1975, Congress added \$32 million in research training funds to the Administration's request. Although the Administration requested Congress to rescind these increases, Congress has declined to do so, thereby forcing the obligation of these funds. HEW was advised of the budget decision not to make new predoctoral training support and to limit institutional, as opposed to individual fellowship awards, but Secretary Weinberger will apparently appeal the predoctoral and institutional awards decisions.

The National Research Service Award Act expires on June 30, 1975. The National Academy of Science's study is behind schedule and it will probably merely endorse the old programs by field, as being in need of training. The 1976 legislative program includes a proposal to modify the legislation in accord with the Administration's budget proposal for a national program of 1,100 postdoctoral awards.



Current Position. No new arguments have been advanced to rationalize the need or appropriateness of Federal research training support. In fact, recent data about the research scientist supply indicate that the supply of biomedical researchers is growing significantly, despite the decline in NIH support from \$171 million in 1969 to \$152 million in 1974. While graduate enrollments in the sciences and engineering have declined in total from 1971 to 1973, graduate enrollment in the life sciences has increased and is projected to increase at a faster rate in 1974. The attached table shows some of the relevant indicators.

At a review of Federal research and development programs for the 1976 budget, the Science Advisor acknowledged the budgetary pressures for research funding that are created by subsidizing the growth in the supply of scientists. He also considered it appropriate to reassess the need for further Federal research training subsidies in view of the apparently ample supply of researchers in the life and social sciences.

In the near future, HEW will be presenting legislation to extend and modify expiring research training laws and possibly a budgetary proposal to reallocate the increased 1975 funds for institutional and predoctoral support. In view of the already severe budgetary pressures on the NIH and ADAMHA research budgets, and the promising picture of the supply of researchers, the effect of perpetuating such subsidies would be to increase the supply of researchers further and thereby make the future problem worse or to supplant private expenditures by individual students with Federal subsidies.

Attachment





Indicators of the Supply of Research Scientists

	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
<u>U.S. Medical School Graduates</u>	8,059	8,367	8,974	9,551	10,391	11,580
<u>Ph.D's Granted in Sciences</u>						
All Sciences	15,993	17,822	19,005	19,035	18,938	N/A
Life Sciences	4,116	4,564	5,051	4,984	5,068	N/A
<u>Number of Biomedical Scientists</u>	58,800	62,300	66,800	75,661	79,800	N/A
<u>Medical School Faculty Salaries:</u>						
<u>Clinical Departments:</u>						
Professor	N/A	N/A	\$33,500	\$35,200	\$36,900	\$39,300
Associate Professor			27,500	29,100	30,500	32,400
Assistant Professor			23,100	24,900	26,000	26,800
Average, all ranks			27,300	29,100	30,300	32,600
<u>Nonclinical Departments:</u>						
Professor			23,600	24,400	25,700	28,100
Associate Professor			19,000	19,500	20,400	22,100
Assistant Professor			15,500	16,000	16,500	17,700
Average, all ranks			19,100	19,600	20,300	23,300
<u>New Approved NIH Research</u>						
<u>Grants</u>						
Funded (Percent)	68%	51%	50%	57%	37%	51%
Unfunded (Percent)	32%	49%	50%	43%	63%	49%



HEW

March 18, 1975

Dear Mr. Dickinson:

This is in further response to your letter of February 3 to Mr. Max L. Friedersdorf, Assistant to the President, concerning Mr. James Kenneth Ward's employment as Director of the Renaissance Wives' Club Head Start program in Dothan, Alabama.

We have been informed by the Department of Health, Education and Welfare (HEW) that Mr. Ward did plead guilty to two counts of a fifteen count indictment and subsequently served a one-year prison term. There is an existing instruction which deals with conditions relating to the hiring of individuals in local Head Start programs who have been convicted of serious crimes. The instruction (CAP Memorandum 23-A, entitled Personnel Policies and Procedures -- Revised, dated August 26, 1966) contains the following language:

"Each grantee and delegate agency is expected to employ only persons who can perform their duties with competence and integrity. In the case of professional, fiscal and managerial personnel, recent conviction of a serious crime shall be considered strong evidence of lack of fitness for the job. Before a grantee or delegate agency employs in any such capacity, a person who has been convicted of a serious crime, its governing body shall conduct an investigation in accordance with fair standards and procedures and, if it finds that the prior conviction does not disqualify the person for the proposed position, shall promptly provide a written statement of its reasons to the appropriate (HEW) Regional Office."



In this case the HEW Atlanta Regional Office did engage in a series of discussions with the grantee, prior to the employment of Mr. Ward, to make sure that the applicable instruction as cited in CAP Memorandum 23-A, with respect to the employment of individuals who have been convicted of a serious crime, was being followed. Based on these discussions, the Atlanta Regional Office determined that all applicable policies had been followed.

HEW also advises that, in accordance with the provisions of the law governing Head Start programs, Governor George Wallace had thirty (30) days in which to review and approve or disapprove the grant application. A copy of the grant application was forwarded to Governor Wallace's office on October 10, 1974. Since Governor Wallace did not approve or disapprove the grant application by November 15, 1974, the HEW Atlanta Regional Office proceeded to process the grant as provided for in the law. Subsequently, a grant in the amount of \$78,272 was awarded to the Renaissance Wives' Club, Incorporated, as the grantee.

I trust that this is responsive to your inquiry.

Sincerely,

Philip W. Buchen  
Counsel to the President

Honorable William L. Dickinson  
House of Representatives  
Washington, D. C. 20515

bcc: Max Friedersdorf

PWB:KAL:dln





HEW

THE WHITE HOUSE  
WASHINGTON

March 21, 1975

4/28 Reply  
recd 4/30

MEMORANDUM FOR

The Honorable Antonin Scalia  
Assistant Attorney General  
Office of Legal Counsel  
Department of Justice

SUBJECT: WEINBERGER v. WIESENFELD  
\_\_\_\_\_ U. S. \_\_\_\_\_ (March 19, 1975).

Would you please review the Social Security Act to determine whether in light of the above-referenced decision section 402(g) of title 42 of the U.S. Code must be amended. If an amendment is required, would your office draft the proper language.

Also, should any other sections of the Social Security Act be amended so that the entire Act will conform with the language of the Court's holding that unjustified gender-based discrimination violates the Due Process Clause of the Fifth Amendment.

Finally, would you consider whether there are any other inequities inherent in the Act which might be considered unconstitutional in light of this opinion of the Court. If there are such inequities, would you discuss any action which would remove them.

P.W.B.  
Philip W. Buchen  
Counsel to the President



HEW

April 30, 1975

To: Jay

From: Eva

As we discussed.



APR 28 1975

MEMORANDUM FOR HONORABLE PHILIP W. BUCHEN  
Counsel to the President

Re: Weinberger v. Wissenfeld.

This is in response to your memorandum to me of  
March 21, 1975.

We have checked with the Office of the Assistant General Counsel, Social Security, of the Department of Health, Education, and Welfare and are informed that the intent of the Social Security Administration is to notify its field offices to pay from the date of the Supreme Court decision all surviving male spouses who would but for their sex qualify for benefits under Section 202(g) of the Social Security Act of 1935, ch. 531, title II, 49 Stat. 623, as amended (42 U.S.C. § 402(g)). It is further intended that this would be followed by regulations formalizing this practice. It is the belief of the Assistant General Counsel's Office, concurred in by the Justice Department, that such action would be authorized and lawful absent any change in the statute. Nevertheless, the section should be amended so as to read in a constitutionally non-objectionable manner.

The minimum change necessary to give effect to the order of the district court, affirmed by the Supreme Court in Weinberger v. Wissenfeld, 43 USLW 4393 (Mar. 19, 1975), is to be found at Attachment A. It should be noted, however, that this change, while extending coverage to surviving fathers, does not provide benefits to surviving divorced fathers, although the section does provide for surviving divorced mothers. Neither the district court nor the Supreme Court discussed the provision for surviving divorced mothers, but the rationale of the Supreme Court, focusing on the choice to be afforded the parent--to stay with the child or to work--suggests that the limitation of benefits to surviving divorced mothers would unconstitutionally discriminate



THE WHITE HOUSE  
WASHINGTON

May 8, 1975

3/9  
to Ken  
Lazarus

MEMORANDUM FOR: PHILIP BUCHEN  
ALAN GREENSPAN  
ROBERT HARTMANN  
JAMES LYNN  
JOHN MARSH  
WILLIAM SEIDMAN

FROM: JIM CANNON

SUBJECT: SOCIAL SECURITY

This is to solicit your comments and recommendations on the attached memorandum from Secretary Weinberger regarding key issues facing the Social Security system.

The Secretary must testify on these issues before the Ways and Means Committee on May 20th. I would, therefore, appreciate having your comments by May 14th. Copies of these materials have been sent to Secretaries Simon and Dunlop for their comments.

CURRENT SYSTEM

Under present law benefits are financed out of current income from Social Security taxes. These taxes are applied equally to employer and employee. The revenue flows through trust funds

- one set for Old Age, Survivors, and Disability (OASDI) which accounts for what is usually considered social security.
- and one for medicare to finance health care for the aged.



Benefits are related to actual income (the wage base subject to social security taxes) but are also adjusted according to the cost of living. The wage base subject to taxes is also adjusted for inflation.

Under present law:

	<u>Calendar Year</u>				
	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>
OASDI Tax	4.95%	4.95	4.95	4.95	4.95
Medicare Tax	<u>0.90</u>	<u>0.90</u>	<u>1.10</u>	<u>1.10</u>	<u>1.10</u>
Total Tax	5.85	5.85	6.05	6.05	6.05
Earnings Base	15,000	16,500	18,300	19,800	21,300

ISSUE

A. Financing

1. Short Term

Since the Social Security system is exceedingly sensitive to changing economic conditions most recent trends indicate that Old Age, Survivors, and Disability outgo will exceed income by a widening margin so that trust fund reserves will be exhausted in the early 1980's. The Medicare Trust Fund is projected to be relatively stable.

2. Long Term

Current demographic projections and recent provisions for automatic adjustments tied to cost of living increases raise serious questions about the fiscal stability of the system over the next 50 years.



B. Selected Advisory Council Recommendations

The Advisory Council on Social Security recommended action to deal with a number of specific items such as

- maintaining retirement test
- equal treatment of men and women
- minimum benefits
- older disabled workers

STRATEGY FOR DEALING WITH ISSUES

Secretary Weinberger recommends that

1. A specific decision be made now on a proposal to deal with the short term financing problem and announced in his May 20 testimony.
2. In that testimony we should indicate the Administration intends to submit in January a proposal to deal with the long term issues.
3. The selected Advisory Council recommendations, with the exception of equal treatment for men and women which has recently been subject of a Supreme Court decision, be included in the long term proposal. Action on the equal treatment can be announced on May 20th.

SPECIFIC OPTIONS ON SHORT TERM FINANCING

The Secretary presents three basic options on dealing with the financing problem of the next 5 years. He suggests the goal should be to not let the Trust Fund reserves fall below 30 percent of outgo.

The Secretary points to the need to focus on the timing of the options

- the longer action is delayed, the more costly it will become to correct the problem.
- because of economic considerations tax increases or other Social Security revenue-producing measures should not be effective before calendar year 1977.





- failure to have a specific recommendation very shortly will provide increased impetus to Congressional moves toward general revenue funding.

The Secretary suggests three basic options for dealing with the short term problem. As you know, the President and the Secretary are on record opposing the use of general revenue funds to stabilize the system. Given the goal of maintaining OASDI trust fund reserve of no less than 30 percent of outgo, the options available are:

- Simply raise the tax rate
- Modest increase in the level of wages subject to Social Security taxes and some increase in the tax rate
- Substantial increase in wage base and transfer some part of Medicare segment of tax to OASDI to avoid tax increase.

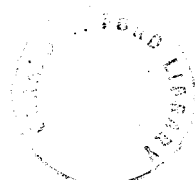
These options should be viewed in light of the increase of 0.2 percent in the Medicare segment of the Social Security tax which under current law, is scheduled to take place in 1978.

#### TAX RATE ONLY OPTION

In 1977 increase total tax from 5.85 to 6.20. The OASDI tax would go from 4.95 to 5.30. In 1978, take the scheduled .20 percent Medicare tax increase and apply it to the OASDI rate, making the rate 5.40 percent for OASDI and 1.00 percent for Medicare. A total tax of 6.20 would apply in 1977 and 6.40 in 1978.

#### Pro

1. Would stabilize trust fund at about 36 percent of outgo.
2. Utilizes relative stability of Medicare trust fund to assist troubled OASDI system.
3. Has promptest corrective effect on trust fund.



Con

1. Would impact most heavily on low income families.
2. Largest total tax increase of any option.

BASE/RATE OPTION A

Slight Increase in Earnings Base Coupled with Tax Increase

Rather than the scheduled 1977 increase to \$16,500 in earnings base subject to tax, increase the base to \$18,000. In addition, raise total tax rate in 1978 from scheduled 6.05 to 6.30. Part of scheduled Medicare increase would be shifted and coupled with an additional increase to protect OASDI trust fund.

Pro

1. Would spread burden to higher income levels thus moving toward greater progressivity.
2. Change in base is not severe.
3. Occurs in conjunction with previously scheduled increases.

Con

1. Tax increase beyond present law.
2. New level of wages subject to tax.
3. Slowest effect on stabilizing trust fund.

BASE/RATE OPTION B

Increase Wage Base and Shift Part of Medicare Increase

This proposal would increase wage base to \$21,000 in 1977, shift part of the 1978 Medicare increase to OASDI but not increase total tax beyond what present law requires.

Pro

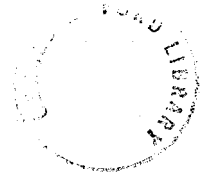
1. Total tax is not increased beyond present law.
2. Moves substantially toward greater progressivity.
3. Has more immediate corrective effect on trust fund outgo.



Con

1. Concentrates total cost of correcting trust fund problems on the higher income group.
2. May set precedent on how to deal with long term problem which precludes tax rate increases.

These are the three basic approaches suggested. The specific effects are outlined on pages 11, 13, 14, and 15 of the Secretary's memo.



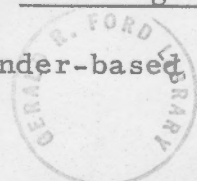
THE WHITE HOUSE  
WASHINGTON  
May 14, 1975

NEW  
SOC. SEC.  
re  
Domestic  
Council

MEMORANDUM FOR: JIM CANNON  
THROUGH: PHIL BUCHEN *T.W.B.*  
FROM: KEN LAZARUS *KL*  
SUBJECT: Social Security

I have reviewed your memorandum of May 8 on the referenced subject and offer the following:

1. Short-term financing proposal. I agree completely with Secretary Weinberger that any proposal advanced at this time to meet the immediate (next five years) needs of the social security system should combine increases in both the tax rate and earnings base. However, in view of the fact that the Secretary intends to address the basics of the Social Security program in January and the fact that any revenue-raising proposal would not be effective prior to calendar year 1977, it might be advisable to discuss this short-term proposal as reflective of some preliminary thinking with an indication that a total package will be announced in January. At a minimum, the Secretary should indicate that this short-term proposal might be refined further in the January announcement.
2. Gender-based discrimination. In Weinberger v. Wiesenfeld, \_\_\_\_\_ U.S. \_\_\_\_\_ (1975), reported at 43 USLW 4393 (decided March 19, 1975), the Supreme Court found a constitutional infirmity in Section 202(g) of the Social Security Act of 1935 involving gender-based discrimination in widow benefits. The Department of Justice has provided us with language to cure the defect announced in Weinberger (Tab A). Additionally, Justice has recommended that Section 202(g) be amended further to remove a second gender-based discrimination provision which was not at issue in Weinberger (Tab B). Finally, Justice advises that a number of other provisions of the Social Security Act are also vulnerable to serious attack on constitutional grounds if not patently unconstitutional under the rationale announced in Weinberger (Summary at Tab C). The Secretary could announce this Administration's commitment to the elimination of all gender-based discrimination in the Social Security program.



Wednesday 5/14/75

4:10 Secretary Weinberger's office called to say that they have arranged to have Dr. Colin Rorrie, Deputy Director, Division of Comprehensive Health Planning, fill in for Secretary Weinberger on May 19 at the Annual Meeting of the West Michigan Unit.

*Noted  
J.*



*For file*

STATE OF MICHIGAN  
SEVENTEENTH JUDICIAL CIRCUIT  
GRAND RAPIDS

STUART HOFFIUS  
CIRCUIT JUDGE

May 8, 1975

The Honorable Casper Weinberger  
Secretary  
United States Department of Health, Education and Welfare  
330 Independence Avenue, S. W.  
Washington, D. C. 20201

My dear Mr. Secretary:

Thank you for your kind letter of May 1, 1975. We are most pleased that you will be with us for the Annual Meeting of the West Michigan Comprehensive Health Planning Unit on Monday, May 19, 1975. We are looking forward to having you and hearing your message.

May we please have a biographical sketch or any other information concerning your background and the title of your talk for use by the news media and introduction purposes.

We will be glad to make any arrangements for your accommodations and can meet you at any place where you may arrive. We also will arrange a news conference or other advance publicity as you may desire.

Thanks again for accepting our invitation.

Yours very truly,

STUART HOFFIUS, President  
West Michigan Comprehensive  
Health Planning Unit

*Phil -  
Many thanks for your  
help in getting the Secy  
to accept. Stu*

SH:vl1

cc: The Honorable Philip W. Buchen

PS: For your information, the Governor's Office has indicated that he will attend. We enclose a copy of the invitation which was sent out to a mailing of 760.

Enclosure

*S. H.  
Best to you & Bunnie*





MAY 5 REC'D

ANNUAL MEETING  
Monday, May 19, 1975

At The University Club  
10th Floor, Old Kent Bank Building  
Number 1 Vandenberg Center  
Grand Rapids, Michigan

SCHEDULED GUEST SPEAKER  
THE HONORABLE CASPAR W. WEINBERGER, SECRETARY  
*United States Department of Health, Education and Welfare*

Social Hour From 6:00 to 7:00 P.M.  
Dinner and Annual Meeting at 7:00 P.M.



-----  
Please detach and return reservation by May 14, 1975 WITH check made payable to:

WEST MICHIGAN COMPREHENSIVE HEALTH PLANNING UNIT

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

No. of Reservations @ \$10.00 \_\_\_\_\_ Total Enclosed \$ \_\_\_\_\_

Please Mail To:

West Michigan Comprehensive Health Planning Unit  
300 Peoples Building  
60 Monroe Avenue, N.W.  
Grand Rapids, Michigan 49502

*Sanfile.*

Wednesday 5/7/75

5:10 Secretary Weinberger's office called in connection 245-6306  
with his letter to you of April 22 in which he indicated  
he would try to attend the West Michigan Comprehensive  
Health Planning Unit Annual Banquet on May 19.

He now finds he has to testify on May 20 -- so will need  
the time to prepare for that.

They will have their Speaker's Group call and arrange  
to have someone attend for the Secretary.



5/19/75



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE  
WASHINGTON, D. C. 20201

April 22, 1975

Honorable Philip W. Buchen  
Counsel to the President  
The White House  
Washington, D. C.

Dear Phil:

Many thanks for your note of April 14. If there is any way I can get to the West Michigan Comprehensive Health Planning Unit Annual Banquet on May 19, I will certainly try to do so. But, in any event I can certainly arrange to have a good representative there in the event I cannot come. I would like very much to be there so I will do my best.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Weinberger".

Caspar W. Weinberger



**Saturday 5/17/75**

**Meeting  
5/17/75  
10:15 a.m.**

**9:15 Mr. Hills:**

**Mr. Buchen feels they may bring up the attached  
at the 10:15 meeting this morning.**





THE WHITE HOUSE  
WASHINGTON

May 8, 1975

*HEW  
(back-up  
sent back  
to Gary)*

MEMORANDUM FOR:

JIM LYNN

FROM:

PHILIP BUCHEN *P.W.B.*

Last month at a staff meeting you suggested that our office request from the Office of Legal Counsel in the Department of Justice what changes in the law may be necessary as a result of the decision of the Supreme Court in Weinberger v. Wiesenfeld, 43 USLW 4393 (March 19, 1975) in which the Court held unconstitutional a gender-based distinction under Sec. 202(g) of the Social Security Act of 1935 as amended (42 USC, Sec. 402(g)).

Attached is a copy of Nino Scalia's memo to me dated April 28, 1975, along with attachments A & B. He also included reports of the Advisory Council on Social Security which are referred to in his memo, but due to the bulk of these reports, I am not furnishing them with this memo.

I suggest that you or someone in your office to whom you assign the matter get in touch with me to discuss what steps should be initiated by the Administration. I am sending a copy of this memo with enclosures to Richard Parsons of the Domestic Council staff for his consideration as well.

Attachments

CC: Richard Parsons





THE WHITE HOUSE  
WASHINGTON

7/15

To: Red Hills

From: Bobbie Kilberg

I talked with Jim  
George of Sen. Brock's staff  
last Thursday in Florida and  
promised to keep him informed.  
Jim is returning to D.C. tomorrow  
and I will speak with him again.



MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

July 15, 1975

MEMORANDUM FOR: RODERICK HILLS  
FROM: BOBBIE GREENE KILBERG *Bobbie*  
SUBJECT: HEW's Proposed Regulations on Maximum Allowable Costs (MAC) for Drugs

HEW's proposed MAC regulations would limit pharmacists' reimbursement for prescriptions to their actual acquisition cost plus a dispensing fee and would limit reimbursement for chemically identical drugs to the lowest priced drug generally available to pharmacists.

HEW has conducted an economic analysis of the proposed regulations which projected an \$80 million per year saving. OMB, however, found the analysis defective in several respects, and HEW is now in the process (1) of making some revisions in the regulations due to comments received from Federal Register publication; and (2) of reworking the economic analysis to answer OMB's concerns.

In checking with different offices within the White House in regard to the cost effectiveness of the proposed regulations, I found that both Lynn Etheredge of OMB and Art Quern of the Domestic Council have been following the issue in detail. The new HEW cost analysis is expected at OMB on Wednesday or Thursday of this week. The Domestic Council agrees that the cost effectiveness of the program should be our central concern, and Art is also sensitive to the dangers of any allegations that we are acting as advocates of the drug industry. Both OMB and the Domestic Council have requested of Secretary Weinberger that he not issue the regulations until the new economic analysis statement has been reviewed by OMB. When OMB receives the analysis, we will send it to George Eads at the Council on Wage and Price Stability for his review.

cc: Philip Buchen



THE WHITE HOUSE  
WASHINGTON

July 15, 1975

Hew  
(see  
DOD  
+  
cong)


ADMINISTRATIVELY CONFIDENTIAL

cy sent  
to  
Dudley

MEMORANDUM FOR:

PHILIP BUCHEN

FROM:

JAMES E. CONNOR 

SUBJECT:

Caspar Weinberger's memo of June 24, 1975  
re Department of Defense's Policy with  
respect to women having abortions in hospitals  
on military bases

The President has reviewed your memorandum of July 1 on the above subject and requested that you prepare a response to Cap from him. It was further noted:

"But, there is some sound merit to Cap's comment on credibility - Why did DOD do it without some forewarning?"

Please follow-up with appropriate action.

cc: Don Rumsfeld





THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE  
WASHINGTON, D. C. 20201

June 24, 1975

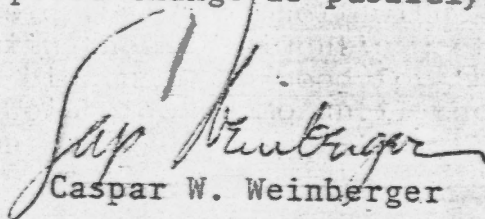
MEMORANDUM FOR THE PRESIDENT

Newspaper reports state that the Department of Defense is considering changing their policy with respect to women having abortions in hospitals on military bases. As you will recall, the present policy is that abortions on military bases should be done in conformity with the laws of the States where the bases are located.

When the Catholic Bishops met with you last week, they specifically inquired as to whether there was going to be a change in policy and reiterated their endorsement of the existing policy and their opposition to any change. I advised them that I knew of no plan for any change and that I thought the present policy was a good one.

I do not see any advantage to be gained by changing the policy nor to public indications that the policy is about to be changed, and for that reason I would recommend that we try to discourage any further consideration of changing an existing policy which thus far has not caused any particular problems nor, so far as I am aware, any particular demand for change.

I also think that the Catholic Bishops would quite justifiably feel they had been misled if, a few days after their conference when none of us had any idea that any policy change was planned, a proposed change is publicly discussed by "Pentagon spokesmen."

  
Caspar W. Weinberger



THE WHITE HOUSE  
WASHINGTON

NEW  
(see  
DOD  
and  
Cong)

July 1, 1975

MEMORANDUM FOR: JIM CONNOR

FROM: PHILIP BUCHEN

P.W.B.

SUBJECT: Re Caspar Weinberger's memo of June 24, 1975 re Department of Defense's Policy with respect to women having abortions in hospitals on military bases

This office has received letters from the following members of Congress urging that the President change the policy as represented by a Presidential Order in 1971 concerning abortions at military bases in the U.S.:

Congresswoman Millicent Fenwick  
Congressman Timothy E. Wirth  
Congressman Donald M. Fraser  
Senator Charles H. Percy

We have referred these letters to the Defense Department for reply and attached is a copy of a reply sent Congresswoman Fenwick.

On the basis of this reply, it appears that the Defense Department is not contemplating a change in policy, although certainly no policy can be maintained which pays heed to unconstitutional State laws.

If the purpose of the Weinberger memo to the President is to raise this problem to the Presidential level, I vigorously object to doing so. If the President merely wants to be informed on this subject, I suggest that we ask the Department of Defense to prepare a report on the subject rather than to have the President guided by Cap's proposed memo.

Attachments





## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 28, 1975

Time:

FOR ACTION:

Phil Buchen ✓  
 James Cannon  
 Bob Hartmann  
 Jack Marsh

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, July 2

Time: 12 Noon

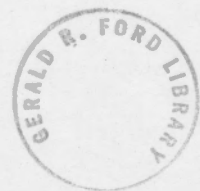
SUBJECT:

Caspar Weinberger's memo of June 24, 1975  
 re Department of Defense's Policy with respect  
 to women having abortions in hospitals on military  
 bases.

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor  
 For the President



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE  
WASHINGTON, D. C. 20201

June 24, 1975

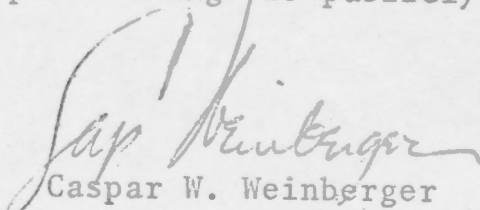
MEMORANDUM FOR THE PRESIDENT

Newspaper reports state that the Department of Defense is considering changing their policy with respect to women having abortions in hospitals on military bases. As you will recall, the present policy is that abortions on military bases should be done in conformity with the laws of the States where the bases are located.

When the Catholic Bishops met with you last week, they specifically inquired as to whether there was going to be a change in policy and reiterated their endorsement of the existing policy and their opposition to any change. I advised them that I knew of no plan for any change and that I thought the present policy was a good one.

I do not see any advantage to be gained by changing the policy nor to public indications that the policy is about to be changed, and for that reason I would recommend that we try to discourage any further consideration of changing an existing policy which thus far has not caused any particular problems nor, so far as I am aware, any particular demand for change.

I also think that the Catholic Bishops would quite justifiably feel they had been misled if, a few days after their conference when none of us had any idea that any policy change was planned, a proposed change is publicly discussed by "Pentagon spokesmen."

  
Caspar W. Weinberger



THE WHITE HOUSE  
WASHINGTON

HEW

July 18, 1975

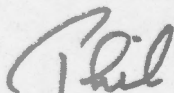
Dear Skip:

Your letter enclosing a copy of a complaint in a pending law suit brought by various hospital associations against the Secretary of Health, Education and Welfare has been received.

Inasmuch as the matter is now in litigation, it would be inappropriate for anyone at the White House to become involved. However, I appreciate your having informed me about the problems which have given rise to this litigation.

Best personal regards.

Sincerely,

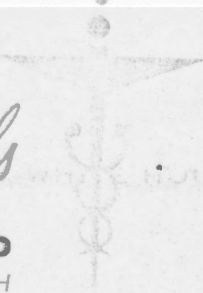


Philip W. Buchen  
Counsel to the President

Mr. W. B. Marshall  
Executive Director  
Greater Grand Rapids  
Hospital Council Incorporated  
Waters Building  
Grand Rapids, Michigan 49502



# Greater Grand Rapids



**HOSPITAL COUNCIL INCORPORATED**

PONSORING HOSPITAL COOPERATION FOR THE HEALTH  
AND WELL-BEING OF WESTERN MICHIGAN CITIZENS

July 11, 1975

Mr. Phillip Buchen  
Counsel to the President  
The White House  
Washington, D.C. 20006

Dear Phil:

For your information, I have included a copy of the complaint filed by the American Hospital Association et al, concerning the withdrawal by regulation of the 8-1/2% nursing differential from reimbursement to our hospitals under Medicare. I hope you would find this brief interesting as a lawyer since from our view, the law has been significantly violated. There isn't a great deal I can add to the arguments contained in the complaint except to point out that by withdrawing this differential, our 10 member hospitals will lose revenue in the amount of over \$150,000, which they in turn would obviously have to pass on to ~~other~~ paying patients with the exception of those paid for by ~~other government~~ programs. This could conceivably increase our per patient day charges in this community by a dollar a day.

Any assistance you can give us with this problem would certainly be appreciated.

Kindest personal regards,

*Skip*

W. B. Marshall  
Executive Director

csp  
Enc.





*NEW Program*

THE WHITE HOUSE

WASHINGTON

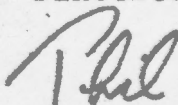
July 18, 1975

Dear Bob:

As I indicated to you when we flew to Michigan, our Office is keeping in touch with developments on the Health, Education and Welfare proposed regulations to set maximum allowable costs for drugs used by patients who benefit from HEW programs.

Enclosed is a copy of a report I received concerning the ~~present~~ status of the matter.

Sincerely,



Philip W. Buchen  
Counsel to the President

The Honorable Robert P. Griffin  
United States Senate  
Washington, D. C. 20510

Enclosure





THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

*Domestic Council (?)*

Date: July 21

Time:

FOR ACTION: Jack Marsh  
Ken Lazarus Pat Lindh  
Jim Lynn  
Max Friedersdorf  
Paul Theis

cc (for information): Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: July 21

Time: 2:00pm

SUBJECT:

Letter to House and Senate Education and Labor Committees  
re Title IX

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

1. Rather than have the President interpret the law, the letter should indicate that he has been advised that this is the effect of the law, and
2. Changes marked on page 2 of letter.

*P.W.B.*

Philip W. Buchen



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

*Jim E. Cavanaugh*

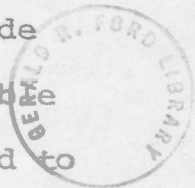
Dear Mr. Chairman:

The Regulation issued by the Department of Health, Education and Welfare under Title IX of the Education Amendments of 1972 became effective today.

As you know, the Department spent almost three years in developing this Regulation. I personally reviewed the Regulation with Secretary Weinberger and received advice from the Department of Justice before approving it as required by law. Further, the Department transmitted the Regulation to the Congress 45 days prior to its effective date, affording the Congress the opportunity to consider whether it was consistent with Congressional enactments. The Regulation was acquiesced in by the Congress as submitted.

The effect of the Regulation on intercollegiate and other athletic activities has drawn more public comment than has any other aspect. Many believe that the Regulation should not apply to intercollegiate athletic activities. However, this would not be consistent with the law.

Section 844 of the Education Amendments of 1974, wherein Congress mandated that the Title IX Regulation "shall include with respect to intercollegiate athletic activities reasonable provisions concerning the nature of particular sports," laid to rest any doubts as to whether athletics should be covered. This Congressional enactment requires that athletics be included in the Title IX Regulation. I believe that the Regulation which the Department developed and which I approved is a reasonable implementation of the statute. It requires equal opportunities



in athletic activities for men and women, but it permits individual schools considerable flexibility in achieving equality of opportunity. Moreover, the adjustment period of up to three years, which applies to secondary and postsecondary athletic programs, should ease the difficulties of transition.

I am concerned, however, with allegations that the Title IX Regulation will destroy intercollegiate activities. I am advised that Senator Tower [Representative O'Hara] has introduced a bill which would amend the statute to exempt from coverage certain intercollegiate activities, and that hearings will be held on this measure in early September. I welcome Congressional hearings on this matter.

Athletics are an integral part of the American education process at the ~~primary~~, secondary and postsecondary levels. Unfortunately, the hearings and floor debates which preceded enactment of Title IX did not provide specific guidance on the application of the principle of equal opportunity to athletic programs. <sup>g</sup> Further Congressional hearings should provide a sound approach to compiling a complete and up-to-date record of the revenues and expenses of athletic programs, and the availability of athletic scholarships or grants-in-aid. <sup>g</sup> If <sup>further</sup> ~~these~~ hearings demonstrate serious and permanent damage to intercollegiate athletics and <sup>g</sup> suggest better approaches to achieving equal opportunity in athletic programs, I would support perfecting legislation and appropriate adjustments to the Regulation.



In the interim, many of the questions and misconceptions concerning application of the Regulation to athletics may be answered or clarified. I have instructed Secretary Weinberger to issue guidelines in the next several weeks so that they will be available before the beginning of the school year. The guidelines should lay to rest many erroneous impressions of the effect of the Regulation on athletics while Congress gives this matter its considered judgment during the fall.

Sincerely,

The Honorable Harrison A. Williams  
Chairman  
Committee on Labor and Public Welfare  
United States Senate  
Washington, D. C. 20510

[The Honorable Carl D. Perkins  
Chairman  
Committee on Education and Labor  
U. S. House of Representatives  
Washington, D. C. 20515]



THE WHITE HOUSE  
WASHINGTON

July 22, 1975

MEMORANDUM FOR:

JIM CONNOR

FROM:

PHILIP BUCHEN *P.W.B.*

SUBJECT:

Caspar Weinberger's memo of  
June 24, 1975, re Department  
of Defense's Policy with respect  
to women having abortions in  
hospitals on military bases

In response to your memo of July 11, I attach a suggested  
form of response for the President to send to Secretary  
Weinberger.

Attachment





THE WHITE HOUSE  
WASHINGTON

Dear Cap:

Thank you very much for your memorandum of June 24. I agree with you that it is troublesome for the Department of Defense to have indicated a possible change in the existing policy with respect to abortions performed in hospitals on military bases. Unfortunately, neither you nor I had any forewarning of this development prior to our meeting with the Catholic Bishops.

I have had Phil Buchen check into the matter and he finds that there is no intent to depart from the statement made by President Nixon in 1971 requiring local law to be followed in this respect. That statement is consistent with the statutory scheme for military bases requiring acceptance of local criminal law for all military installations within the United States.

Nevertheless, a problem arises from the recent enactment of detailed legislation by several States in an attempt to adjust their laws on abortion practices so as to conform to the applicable Constitutional principles which were enunciated by the Supreme Court. Already some of these enactments have been found to be inconsistent with the Supreme Court decisions, and others may well be held eventually to be inconsistent. The Department of Defense thus has a problem of how to be selective in adhering only to those laws which are Constitutional.

Department of Defense bases had apparently been following local laws without any regard for whether they were constitutional. As the Department reappraises the validity of some local laws, there



will probably be some changes in practice based on new legal advice, but not because of a change in policy. I understand that this is being studied by the Department of Defense preparatory to making appropriate recommendations to me.

If you do get any further inquiries on this subject, I suggest that you respond in accordance with this advice.

Sincerely,

The Honorable Caspar Weinberger  
Secretary of Health, Education,  
and Welfare  
Washington, D. C. 20201

