

NLWJC - Kagan

DPC - Box 015 - Folder 002

**DPC [Domestic Policy Council] -
Weekly Reports [3]**

6-8-98

THE WHITE HOUSE
WASHINGTON

June 4, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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from your files*

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1. **Tobacco -- Senate Update:** The Senate passed two amendments to the McCain bill this week. The first, sponsored by Senator McCain and approved by voice vote, provides \$3 billion over five years to the Veterans' Administration to assist veterans with smoking-related illnesses. The second, approved by a 66-29 vote, greatly increases the surcharges imposed on individual companies that fail to meet youth smoking targets. This amendment, supported by most Democrats as well as by those Republicans who want to kill tobacco legislation (on the theory that a lack of balance will bring the bill down), would impose penalties equaling or exceeding anticipated industry profits on a company that has a significant youth market and misses its youth reduction targets by 20 percent.

Next week, the Senate is scheduled to consider a proposal by Senator Gramm to use tobacco revenues for a tax cut to all married couples earning less than \$50,000 per year (whether or not they now pay a marriage penalty). A prior version of this proposal would have decimated just about all other spending immediately, but Gramm reportedly is phasing in his amendment to avoid this result. The latest version would cost \$13 billion over the first four years (28 percent of total receipts), an additional \$30 billion in the next five years (42 percent of total receipts), and \$225 billion in the remaining years of the bill (78 percent of total receipts). Even this "scaled back" version of the amendment, of course, is incompatible with our and the Democratic Caucus's spending priorities. For this reason, Senator Daschle has prepared an alternative tax amendment, which would provide relief for those married couples earning less than \$60,000 per year who now pay a marriage penalty, as well as accelerating the deductibility of health insurance costs for the self-employed. This alternative proposal would cost \$11 billion over the first four years and would continue to consume between 20 and 25 percent of total revenues throughout the lifetime of the bill. It is conceivable that McCain and Senator Kerry will strike a deal with Gramm next week that splits the difference between these two proposals. Such a compromise certainly would grease Senate passage of the tobacco bill, but at some cost to our public health and research priorities.

This is a tobacco policy

The Senate also is expected to vote next week on an amendment offered by Senators Craig and Coverdell, which would allocate about \$2 billion each year to anti-drug efforts, again cutting into the funding available in the bill for public health and research. The Craig-Coverdell amendment also includes a permanent prohibition on the use of federal monies for

needle exchange and a program to allow education vouchers to students who have been the victims of school violence. We are working to draft a modified version of the Craig-Coverdell amendment that spends less money on anti-drug efforts and eliminates the amendment's poison pills. We hope that we will be able to convince a bipartisan group of Senators, including McCain and Kerry to support this modified anti-drug amendment.

Cloture votes are scheduled for Tuesday and Wednesday, but because Senator Lott strenuously opposes cutting off debate at this time, no one expects these motions to pass. We are hopeful that by the end of the week, the Senate will have dealt with the tax and drug issues, as well as the two Republican substitute bills and the farmers provisions, and that it then will be ready to vote for final passage.

Good!
try to get this done!

2. Health -- Patients' Bill of Rights: Congressman Norwood called Chris Jennings on Thursday to express interest in organizing a discharge petition that would send patients' bill of rights legislation immediately to the House floor for a vote. As you know, Norwood is the author of a patients' bill of rights bill with over 200 co-sponsors. Norwood told Chris that he might be interested in entering into negotiations with Congressman Dingell to merge their bills and bring the resulting legislation to the floor. Norwood said, however, that he would wait until the end of this month before firmly committing himself to this course of action, in order to give the House Republican Task Force a final chance to offer a proposal that he believes can pass the Congress. Chris is meeting with Dingell this week to discuss Norwood's proposal.

Good!
Rush ahead?

3. Health -- Prostate Cancer: We will announce on or around Father's Day the release of over \$25 million in new Department of Defense grants for prostate cancer research. This announcement will allow us to highlight significant actions the Administration has taken or can take in the future to prevent prostate and colorectal cancer. In response to new scientific developments, the National Cancer Institute (NCI) is increasing funding for research in this area, and these new research efforts will proceed even more quickly if Congress passes your proposed 67 percent increase in cancer research. In addition, the NCI is beginning new clinical trials on prostate cancer, which will have the greatest chance of success if Congress enacts your proposal, now included in the McCain tobacco bill, to provide Medicare coverage of cancer clinical trials. Finally, the new Medicare preventive benefit for prostate and colorectal screening will go into effect in the year 2000, by which time further developments in testing and treatment should ensure that this benefit will lead to lower mortality rates.

4. Health -- Assisted Suicide: The Justice Department issued an opinion letter on Friday stating that the Controlled Substance Act (CSA) does not give the Drug Enforcement Agency the authority to take adverse action against physicians who assist their patients to commit suicide. As you will recall, Senator Hatch and Congressman Hyde requested this opinion in the hope that the CSA would preempt Oregon's new assisted suicide law. As you directed, the Justice Department's letter notes your "longstanding position against assisted suicide" and indicates that you "remain open to working with . . . members of Congress on this

complex but extremely important issue." We expect Hyde and Hatch, and perhaps Senator Nickles as well, to introduce legislation soon that would make physician-assisted suicide a federal offense enforceable by the DEA or some other federal agency.

Let's try to get the DOJ legislation

5. Health -- Medicare Coverage of Abortion: We are currently considering issues relating to Medicare coverage of abortions, which have been raised by Senator Nickles and the Catholic Health Association (CHA). The issues arise because some women of child-bearing age receive Medicare benefits as a result of their eligibility for Social Security Disability Insurance. The CHA is concerned that Catholic institutions will have to provide abortion services if they wish to become Provider Sponsored Organizations eligible for Medicare payments, as allowed under the Balanced Budget Act. CHA and Nickles have asked the Administration whether the Hyde Amendment applies to the Medicare program and/or whether Catholic institutions can refuse to provide abortion services for religious reasons under the Medicare program. We are working with HHS, OMB, DOJ, and the Counsel's office to determine current Medicare coverage practices as well as to develop options on how to respond to these inquiries. We are very concerned that Senator Nickles will soon highlight this issue, adding it to the growing list of abortion proposals Congress will take up this year. We will send you an options memo this week.

6. Health -- Medicaid Coverage of Viagra: HHS is expected to announce this week that the Medicaid statute requires coverage of Viagra as long as it is prescribed for a medically necessary reason. To prevent abuses, states can impose a prior authorization requirement (which requires physicians to provide an explicit medical rationale for the dispensing of this medication) and limit the number of pills an individual can receive. Even with these protections, states will oppose the HHS ruling vigorously; they fear that it will open the door for required coverage of numerous other "designer drugs." In issuing its ruling, the Department will stress that the Secretary has authority to reverse the ruling and exclude the drug if experience shows that the drug is being inappropriately or excessively prescribed. HHS will work closely with state Medicaid directors to collect data on Viagra prescriptions, so that it can determine in the future whether such an exclusion is warranted.

Pres. Sharron Goldberg

7. Health -- Private Plans' Coverage of Viagra and Birth Control: Although most private plans have decided to cover Viagra (with various kinds of limitations), many still do not cover birth control pills. Some women's groups charge that these coverage rules demonstrate a kind of double standard; these groups support a bill, introduced this year by Senator Snowe, that would require private plans to cover birth control. (Medicaid does require coverage of birth control bills, so there is no federal disparity on this issue.) Since the debate on the Health Security Act, we have generally hesitated to endorse benefit mandates in private insurance. We can expect, however, to face increasing pressure on this issue from the women's community during the next Congress.

8. Health -- Genetic Discrimination Legislation: Labor and Human Resources Committee Chairman Jeffords has asked us to participate in a workgroup to develop a bill

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prohibiting genetic discrimination by health insurance plans. This legislation responds to your call to build on the anti-genetic discrimination provisions in the Kennedy-Kassebaum law by passing new protections (1) to ensure that genetic information is not used to deny access to health insurance or to raise premium rates and (2) to prevent insurance companies from disclosing genetic information to other parties. Jeffords intends to put forward a freestanding bill containing these protections because he believes that the Senate may not pass any broader health initiative this year. We are somewhat concerned that Jeffords will produce a watered-down bill in order to increase its chance of passage, but we will participate in his workgroup in the hope that we can prevent this outcome.

9. Health -- Ricka Powers Case: The Vice President spoke on Wednesday to the AARP Conference in Minneapolis, where he called on Congress to pass a patients' bill of rights and highlighted the experience of Minneapolis resident Ricka Powers to show the need for such legislation. Following the event, the HMO that Ms. Powers accused of mishandling her case (Health Partners) vehemently denied her accusations. Because Minnesota law prohibits the plan from releasing specific information about a case without the patient's permission -- which Ms. Powers declined to give -- we cannot determine the full truth of the matter. We therefore recommend that you and the Vice President avoid referring to this case in the future.

OK

10. Welfare Reform -- HHS Study: HHS just announced that it will make funds available to eight to ten states to track people leaving the welfare rolls. The studies also will attempt to collect information on families that are not coming onto the welfare rolls because of diversion programs, new eligibility rules, or other factors. Results of the study probably will not be available for several years.

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11. Drugs -- Drug Courts: The National Center on Addiction and Substance Abuse (CASA) released last week the first major study on the effectiveness of drug courts. The study found that drug courts provide more comprehensive supervision, monitoring, testing, and treatment than other forms of community supervision of drug offenders. According to the report, 55 percent of drug courts require at least two drug tests per week, 35 percent require weekly tests, and 10 percent require tests every other week. By comparison, among jurisdictions using simple probation supervision, none require drug tests more than once each week, eight percent require weekly tests, 52 percent require monthly drug testing, and 33 percent test on a less frequent or random basis. In addition, CASA found that drug use and criminal behavior are substantially reduced while offenders are under drug court supervision, as well as after they leave the program. Drug courts have flourished in the past few years, largely because of the 1994 Crime Act which authorized the first-ever federal funding for drug courts. Between 1995 and 1997, the Justice Department provided \$56 million to drug courts, and as of last month, drug courts existed in 275 jurisdictions.

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12. Children and Families -- Child Support Bill: You will soon receive for signature the legislation you called for in 1996 making it a federal felony for parents to cross

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6-8-98

state lines to evade child support. The Senate approved the bill by voice vote yesterday, while the House passed it by a vote of 402-16 last month.

13. Women's Issues – Equal Pay Act Event: You, the Vice President, and the First Lady are currently scheduled to participate in an event on Wednesday to commemorate the 35th anniversary of President Kennedy's signing of the Equal Pay Act. Dr. Dorothy Height, who attended the signing in 1963, is also expected to participate. You will urge Congress to pass Senator Daschle's and Congresswoman DeLauro's equal pay bills, which would strengthen enforcement of the Equal Pay Act -- primarily by providing for compensatory and punitive damages, rather than mere liquidated damages and backpay. (The Vice President previously announced the Administration's support for this legislation.) You also will release a report by the Council of Economic Advisors on the wage gap, which shows that although the gap between women's and men's wages has narrowed substantially, women still make just over 75 percent of what men do.

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14. Education – Class Size Reduction: Senator Murray is preparing to introduce your class size proposal within the next week to ten days. She has lined up 10 to 12 cosponsors, and believes she can more than double that number before the bill is introduced if she can identify a credible offset to replace the tobacco funding we proposed in our budget. We and OMB have been working with Murray's office to identify potential offsets, and will suggest several to her this week. We are also working closely with Murray, as well as with Senator Daschle, the teachers' unions, and other education groups, to design and carry out a coordinated legislative, communications, and grass roots strategy on this issue.

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15. Education – Bilingual Programs: The House Education and Workforce Committee passed, on a party line vote, Congressman Riggs' proposal to replace the existing bilingual and immigrant education programs with a block grant to states that requires all students to be placed in regular English-language classes within 2 years. The Education Department is nearing completion of an Administration alternative to this bill, which will be ready for transmission by the end of next week, should you wish to put an alternative forward now rather than waiting for the reauthorization of the bilingual program next year. The Hispanic Caucus is strongly opposed to the introduction of any alternative at this time, but other Democrats may want the cover that an alternative bill would provide in order to vote against the Riggs bill. We will send you a memo on this issue this week.

THE WHITE HOUSE
WASHINGTON

May 29, 1998

6-1-98

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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Reed
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1. Tobacco -- Senate Update: When the Senate returns from recess, it is scheduled to return to the McCain legislation and resume consideration of an amendment by Durbin to increase look back penalties and an amendment by Sen. Gramm to provide a cut for married couples with income of less than \$50,000 per year. Other potential amendments include: two complete substitutes (one by Senator Nickles and one by Senators Hatch and Feinstein), additional tax proposals (possibly including a slimmed-down version of the Gramm amendment, as well as a Roth-Boxer proposal for health care tax cuts), several anti-drug measures (see our separate memo on Monday), an anti-smuggling provision authored by Senator Leahy, a provision on the deductibility of tobacco advertising costs by Senator Reed, and efforts to cut back on FDA jurisdiction. Senator McCain's strong preference is for an early cloture vote, which he believes he can win. Senator Lott opposes an early cloture vote, on the theory that his caucus will only harden if it feels jammed. Senator Daschle is still considering the question. We tend to agree with McCain, for fear that the bill will become weighed down with too many amendments and consideration of it will drag on forever. We and Larry will have further discussions of this question with the relevant Senate players this weekend.

2. Tobacco -- Farmers: The DPC and USDA are trying to ensure a favorable conclusion to the current dispute over providing assistance to tobacco farmers. As you know, the McCain bill now contains both Senator Lugar's and Senator Ford's proposals. The Ford measure, which we, public health groups, and most Democrats support, provides for an optional buy-out and preserves the price support program, at a cost of \$28.5 billion over 25 years. The Lugar measure, which most Republicans support, provides for a mandatory buy-out and ends the price support program (creating a free market in tobacco), at a cost of \$18 billion over three years. USDA calculates that Lugar would lead to an increase in the amount of tobacco grown in this country and a consequent decrease in its cost -- saving companies as much as \$20 billion over 25 years. In addition, OMB estimates that Lugar would displace 69 percent of the research and public health spending in the McCain bill in the first three years, assuming spending to the states were held constant. We have distributed this information widely, especially to moderate Republicans who should be concerned about the impact of Lugar on public health. We also have made clear to both sides our willingness to broker a compromise (for example, a phase-out of the price support

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program over 10 or 15 years, or the creation of a commission to work out the best approach to this issue). As of now, however, both sides think they have the votes to defeat the other (which, in fact, they both might), and compromise discussions have not proved productive.

3. Tobacco -- Minority Caucus Concerns: DPC, OMB, and HHS will meet next week with members of the House Minority Caucuses to discuss their views of tobacco legislation -- especially the McCain bill's approach to public health spending. These members have concerns about the Senate bill's use of block grants to states for smoking prevention and cessation programs. They also are upset that the bill contains no direct grants to historically black and predominantly Hispanic colleges, universities, and medical schools. These members have sent us an alternative proposal for public health spending, but the agencies believe that it raises significant constitutional and administrative concerns. The proposal includes funding set-asides for minority groups that the Department of Justice believes run afoul of the Supreme Court's Adarand decision. In addition, the proposal's funding mechanism would create major administrative burdens for the Department of Health and Human Services. We anticipate holding several discussions with members of the Minority Caucuses to work out ways of making them more comfortable with the public health provisions of the legislation.

4. Welfare Reform -- State Use of TANF Funds: The NGA Fiscal Survey of States, released on May 27, contained some encouraging information about the way states are using welfare monies. The report showed that states are shifting funds from direct cash payments to work-related supports. Since 1996, spending for cash assistance has decreased 26 percent, while spending for child care has increased 85 percent and spending on work activities has increased 34 percent. Total welfare spending declined by 9 percent, but given caseload reductions, this figure represents increased spending per welfare recipient.

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5. Education -- GAO Report on National Testing: In response to a request from Rep. Goodling, the GAO will issue a report next week on the roles played by NAGB and the Department of Education in developing the national tests in 4th grade reading and 8th grade math. The report finds that NAGB has full control over development of the tests, as required by law; it finds not a single instance of improper interference by the Department. In addition, the report finds no reason to criticize the procedures NAGB has used to award test development contracts. Although we do not expect the report to mitigate Rep. Goodling's adamant opposition to the tests, it should prevent him from making the claim that test development somehow remains under the influence of the Administration.

6. Education -- Adult Education: You recently asked what the Administration had accomplished with respect to adult education and whether we need to take additional steps. The Senate and House workforce investment bills, which Congress is expected to pass by July 1, provide for the reauthorization of all federal adult education programs. Your FY 1999 budget requests a \$16 million increase in grants to states for adult education programs. It also includes a request for funds to develop model English-as-a-second-language programs

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for adults, since 40 percent of adult education participants are in such programs. In addition, the Department of Education has funded a PBS series, called "Crossroads Cafe," which is a kind of "Sesame Street" for adults learning English. The program is now shown in 35 states (and 50 foreign countries) and will be expanded shortly. DPC will begin a working group with NEC and the Education Department to explore how we can best highlight the efforts we already have underway, and what additional steps would be appropriate.

7. Health -- Assisted Suicide: The Department of Justice plans on releasing a letter next week, in response to an inquiry from Senator Hatch and Congressman Hyde, concluding that the Controlled Substances Act does not give the Drug Enforcement Agency (DEA) authority to take action against physicians who assist their patients to commit suicide. Consistent with your directions, this letter will include a restatement of your longstanding position opposing assisted suicide and an indication of your willingness to consider workable legislation addressing this issue. As you know, we expect that Hatch and Hyde will respond to the Department's letter by introducing a bill authorizing the DEA to take action against physicians for assisting suicide -- a legislative approach that we believe is ill-advised. We will work closely with DOJ to roll-out its letter, and will keep you advised of legislative developments.

8. Health -- HCFA Letter to Ravenswood Hospital: The Health Care Financing Administration (HCFA) sent a letter yesterday to Ravenswood Hospital of Chicago threatening it with loss of Medicare funding for policies posing a grave threat to the health and safety of patients. The letter followed an incident in which a 15 year-old died of gunshot wounds just 35 feet from the hospital door after hospital workers refused to leave their posts or even to give police officers a stretcher to bring the young man into the hospital. The HCFA letter states that the hospital will lose funding in three weeks, unless it provides credible evidence within that time of having reformed its emergency room policies and practices. We issued a statement in your name highlighting HCFA's action, as well as urging all hospitals to follow recently released guidance by the American Hospital Association on appropriate emergency procedures.

9. Health -- Medicare Commission: The Medicare Commission will hold a meeting on Monday, most of which will be devoted to discussions among the members on the major issues of benefits, costs, eligibility, administration, and financing. (We have told our members that they should feel free to talk openly about controversial policy reforms such as benefit changes, eligibility age changes, and means-testing proposals, but should avoid at this time any serious discussion of new taxes.) In general, the Democratic members are becoming nervous that the Commission's staff is focusing exclusively on questions of program financing, while ignoring issues of program design. They will use this meeting to urge the Commission to address ways of making the Medicare program more responsive to the needs of beneficiaries, at the same time as the Commission takes up the program's financing challenges.

10. Health -- Long Term Care: Aging and disability advocates are placing increased pressure on us to address the issues surrounding long-term care. Demographic changes will heighten the demand for these services greatly in the coming years, but cost considerations have deterred both the public and the private sectors from taking up this challenge. Although truly comprehensive approaches are politically and financially unrealistic, we can develop targeted policies that will begin to address the problem. These policies might include: requiring the Federal Employee Health Benefit Plan to offer (but not pay for) long-term care policies; informing Medicare beneficiaries that Medicare does not cover long-term care and advising them of other coverage options; giving more flexibility to States to use home- and community-based care options for elderly and disable people on Medicaid; and providing tax incentives to increase the purchase of private long-term care policies. We are setting up a working group to explore these and other ideas so that you begin to address this important issue shortly.

*This will be done by
 a new program to
 win 2 mos.*

5-25-98

THE WHITE HOUSE
WASHINGTON

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May 22, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. **Tobacco -- Senate Update:** As you know, after soundly defeating amendments to (1) cap attorneys' fees, (2) eliminate industry payments, and (3) raise industry payments to the equivalent of \$1.50 per pack of cigarettes, the Senate passed an amendment to the McCain bill to remove the \$8 billion annual cap on industry liability. We are fearful that the passage of this amendment will make the bill appear unbalanced to some Senators and will introduce a kind of open season on further amendments. When the Senate returns from recess, it is scheduled to take up an amendment by Sen. Durbin to increase lookback penalties and an amendment by Sen. Gramm to devote most of the bill's revenues to a tax cut for married couples with income of less than \$50,000 per year (advertised as an elimination of the marriage penalty). Some moderate Republicans might join Democrats to pass the Durbin amendment; just as likely, some Democrats might join Republicans to pass the Gramm amendment, which would wipe out most of the public health and research spending in the bill, but provide a significant tax cut to low- and middle-income people. We will have to decide in the next week whether to develop and/or support a smaller tax cut proposal. Such a proposal would take the pressure off Democrats to vote for the Gramm amendment and if passed, would enhance the attractiveness of the bill to Republicans; inevitably, however, the proposal would diminish the funds available for spending on health research and public health programs.

Need
Caption
Analysis

2. **Tobacco -- MMWR Study:** The Centers for Disease Control released on Thursday new statistics on teenage smoking patterns and addiction. The data found that: (1) teenagers find it difficult to quit smoking -- 86 percent of teens who smoke daily and try to quit are unsuccessful; (2) teenagers underestimate the addictiveness of nicotine -- 75 percent of teenage daily smokers who expect to quit are still smoking five years later; and (3) casual smokers easily become hooked -- 42 percent of young people who smoke as few as three cigarettes per month go on to become regular smokers. About 36 percent of high school students currently smoke.

3. **Crime -- COPS Event:** You are tentatively scheduled to participate in an event on Friday to: (1) announce that the COPS initiative has now funded the hiring of 75,000 new police officers and (2) launch a new pilot project to target COPS funding toward distressed and

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underprotected neighborhoods. The first phase of the pilot will fund more than 500 officers in 10 large and 10 small cities across the country.

4. Crime – Police Legislation: Congress passed two pieces of legislation last week that the Administration and law enforcement groups strongly supported. One bill will create a grant program to help local law enforcement agencies purchase additional bulletproof vests; the other will help fund counseling services for dependents of slain officers. We are working with Rahm and the Legislative Affairs Office to schedule a signing ceremony for these bills, perhaps as part of the COPS event described above.

5. Health – Patients' Bill of Rights: Amidst reports that Speaker Gingrich is trying to stop Congress from passing a patients' bill of rights this year, Rep. Norwood has begun quiet discussions with Rep. Dingell about filing a discharge petition to bring such legislation directly to the floor for a vote. To highlight the necessity for immediate Congressional action on this issue, you are scheduled to participate in an event next week to release a state-by-state analysis showing how many Americans are not currently covered by patient protection laws. This event also will highlight why the protections in the patients' bill of rights are so important to women: in particular, studies show that doctors view health complaints made by women as less urgent than those made by men and as a result, refer women to specialists less often. Nancy Dickey, the newly-appointed first woman chair of the American Medical Association, is scheduled to participate in the event.

6. Education – Bilingual Education: The House Subcommittee on Children, Youth and Families last week approved a bill offered by Rep. Riggs that would replace the current bilingual and immigrant education programs with a block grant to states to help LEP students learn English. The bill would (1) require states to cut off funds to any local program that does not place all LEP students in regular English-language classes within two years; (2) prohibit states from exempting any student who has been in school for two years from participation in English-language tests; (3) void existing compliance agreements between the Education Department's Office of Civil Rights (OCR) and local school districts under Title VI of the Civil Rights Act regarding the provision of services to LEP students; and (4) prohibit OCR from entering into additional agreements until it proposes, and Congress ratifies, new guidelines and compliance standards for Title VI. DPC is working with other White House offices and the Education Department to develop a strategy for addressing the Riggs bill; as part of this strategy, we may wish to propose alternative legislation that reflects the principles you have articulated for strengthening programs for LEP students. We will send you a more detailed report on this issue next week.

7. Education – New Orleans Schools: You recently asked about how the Education Department's Office of Civil Rights (OCR) is handling a complaint brought by parents against a selective magnet school in New Orleans for using high IQ scores as a strict admissions requirement, regardless of grades or other indicators of academic performance. In response to this complaint, the local school board already has agreed to work with OCR to develop new

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admissions criteria that will maintain high standards but not rely solely on IQ scores. On OCR's advice, the board will not rescind admission decisions made under the current admissions standard for the next school year. OCR understands the importance of working with the school board to resolve this complaint in a way consistent with the Administration's commitment to high standards and testing, and so far has managed to defuse much of the controversy arising from the complaint's filing.

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8. Welfare Reform -- Welfare-to-Work Celebration: You are scheduled to participate in an event on Wednesday to celebrate the success of the welfare-to-work effort, with a particular spotlight on the Welfare-to-Work Partnership. Over the last year, the Partnership has grown to 5,000 businesses, which have hired a total of 135,000 welfare recipients. In a recent survey, 75 percent of the businesses in the Partnership found welfare recipients to be productive employees; indeed, a number of businesses reported that people hired off welfare have higher retention rates than other new employees. At the event, you will announce the latest caseload reduction numbers and the first round of Welfare-to-Work Competitive Grants (from the \$3 billion Welfare-to-Work program in the balanced budget); you also will challenge the Partnership to double the number of people hired by its business partners in the coming year. In conjunction with the event, the Partnership will release a report called the *Road to Retention*, which profiles the successes of 16 large and small businesses in retaining former welfare recipients as employees. The Partnership also will release new PSAs on the welfare-to-work effort.

Good
Do we
know when
we're
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blow
it out?
Wally
John

9. Immigration -- H-1B visas: By a vote of 23-4, the House Judiciary Committee approved on Wednesday legislation authored by Rep. Lamar Smith to increase the cap on H-1B visas. As requested by the Administration, the bill makes substantial reforms in the H-1B program in order to protect qualified U.S. workers from being displaced or passed over in favor of temporary foreign workers. The bill however, does not contain a training component. Prior to the mark-up, Secretary Daley, Secretary Herman, and Attorney General Reno sent a letter to Chairman Hyde indicating that the Administration would support the bill if it were modified to include a meaningful training provision. Also last week, the full Senate passed its version of legislation to increase the cap on H-1B visas. The Senate bill is the mirror image of the current House provision: the former authorizes money for increased training through Title IV of the JTPA, but fails to include any meaningful reforms of the H-1B program. Our SAP on the bill stated that unless the final bill includes meaningful reform of the H-1B program, the Secretary of Labor would recommend a veto.

10. Immigration -- INS Reform: As we expected, Rep. Rogers introduced a bill last week that would disband the INS and reallocate immigration functions among the Justice, State, and Labor Departments along the lines suggested by the United States Commission on Immigration Reform. Soon after the Memorial Day recess, Sen. Kennedy and/or Rep. Watt will introduce legislation implementing the Administration's alternative reform plan, which would preserve the INS but fundamentally reform its operations by separating service and enforcement functions. Sen. Abraham has announced that he will hold hearings in June on

restructuring the immigration system, but has indicated that he does not expect Congress to approve a plan this year.

THE WHITE HOUSE
WASHINGTON

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May 1, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Tobacco -- Legislative Update: The Senate Commerce Committee filed on Friday a new version of the McCain bill, which includes technical changes. Senator Lott apparently has acceded to Senator Roth's request that the Finance Committee have a chance to consider the bill; that Committee is now expected to hold a mark-up during the week of May 11. If all goes well, Lott will bring the bill to the floor the next week.

We are still trying to set up negotiations involving the Administration, Lott and Daschle (or their designees), and McCain and Hollings. The aim of these negotiations would be to develop an agreed-upon manager's amendment as well as an amendment strategy for the floor. Without these negotiations, we are fearful that (1) Lott will decide not to bring the bill to the floor, or (2) the bill will not survive the floor in a viable form. So far, however, neither Lott nor Daschle have definitively agreed to this strategy.

Senator Daschle has set up a number of working groups to develop possible amendments to the McCain bill. The working groups -- some of which have begun to meet already and some of which will begin next week -- tend to be slanted toward the left, with heavy participation from Senators Conrad and Kennedy. Preliminary information from Daschle's staff suggests that the working groups are considering greater increases in price (\$1.50 over three years) and look back penalties (uncapped penalties with a very significant company-specific component) than we support. The price issue may become less important once CBO scores the McCain bill, but the lookback issue is likely to remain troublesome.

In addition to providing Sen. McCain's staff with purely technical amendments, which they incorporated in the new version of the bill, we have given them (or will give them this week) two sets of amendments designed to better effect the aims of the legislation. First, we provided McCain's staff with language to strengthen the bill's licensing provisions, so as to ensure that we have an adequate mechanism in place to prevent smuggling. (Deputy Secretary Summers gave highly effective testimony on this issue to a skeptical Senator Hatch last week.) Second, in response to a request from McCain's staff, we will give them advice early this week on how to restructure the bill so that it can operate effectively regardless of industry consent. Our suggested changes, drafted by the Justice Department, would reorganize the bill into two parts: the first part (Titles 1-11) imposing measures on all tobacco

the pressure on Republican leaders to move legislation on this issue this year. We released a written statement from you praising these members for providing "new momentum towards ensuring that a patients' bill of rights will become the law of the land." Also last week, Chris Jennings met with disability advocates to encourage them to step up their efforts on behalf of the Dingell bill. The advocates indicated to Chris that they would make quality legislation a high priority.

6. Education -- This Week's Events: You are currently scheduled to meet with approximately 10 mayors on Thursday to discuss urban education. We expect your remarks to focus on your Education Opportunity Zones initiative, including its emphasis on eliminating social promotions. The remarks will note the increasing number of cities, including Washington, D.C. and New York, that have adopted no-social-promotions policies since you began to highlight this issue. You will speak to the Delaware State Legislature the next day regarding your education agenda, this time with an emphasis on your class size initiative. Delaware has made a strong effort to reduce class size, and you can call on Congress to provide it and other states with assistance.

7. Education -- Unz Initiative: Secretary Riley issued a detailed statement on Monday opposing California's Unz Initiative, but advocating reforms to the current system of bilingual education, including a three-year goal for moving students into regular English-language classes. Senior staff in the offices of Intergovernmental Affairs, Political Affairs, and Public Liaison have reported a good response from the Hispanic community and most state and local leaders to both the content and the timing of the announcement.

Good - we need to work their heads on substance

great source mention in Delaware speech

8. Education -- Charter Schools in California: After two weeks of negotiations among Silicon Valley high-tech executives, the California Teachers' Association (CTA), and state legislators, the California legislature passed and Governor Wilson signed new charter school legislation. The new law, which moots a charter school ballot initiative sponsored by Silicon Valley, allows 150 new charter schools in the first year and an additional 100 in each subsequent year. The bill also eases the requirements for starting a charter school.

9. Family -- Child Support Enforcement: The House and Senate are about to begin conferencing on legislation to set realistic penalties for states' failure to put in place statewide computer systems to track parents who owe child support. The two bills are very similar, but the Senate version is slightly less tough; it gives the states an additional year to comply without penalty and allows them to recover some prior penalties once they come into compliance. These more lenient provisions were crafted to satisfy members from California, which is years away from having a functioning statewide system and accordingly faces greater penalties than any other state. (About 15 states in total are likely to face a penalty under the legislation.)

L.A. County is now lobbying hard for a new provision that would reduce California's penalty by the precise share that the State intends to pass along to the County. (If Congress

were to enact this amendment, California would excuse L.A. County from paying any part of the State's penalty.) L.A. County District Attorney Gil Garcetti argues that L.A. County has a well-functioning system, which was designed with federal involvement under a waiver several years ago. Senator Feinstein supports Garcetti's proposed change to the child support legislation, but many House members from other parts of the State oppose it. DPC, HHS, and OMB oppose the provision because (1) numerous counties in non-complying states could make an identical argument and (2) optimal tracking of deadbeat parents across state lines requires statewide (not just well-functioning countrywide) systems.

10. Welfare Reform -- Welfare-to-Work Transportation Initiative: At our request, Secretaries Slater and Herman and HHS Assistant Secretary Olivia Golden will participate in an event on Thursday to highlight your Access to Jobs initiative. The event also will include several Governors and Members of Congress. On the same day, Slater, Herman, and Secretary Shalala will issue guidance to states and communities on ways to use TANF and Welfare-to-Work funds to break down transportation barriers. The Access to Jobs initiative currently appears to be in good shape; we think it will emerge from the ISTEIA conference authorized at \$150 million per year -- \$50 million more than we requested. We now must keep the spotlight on this initiative for purposes of ensuring an adequate appropriation.

11. Disability Task Force -- Health Issues: The task force you created last month by executive order on employment of people with disabilities got off to a strong start last week at its first meeting. The all-day meeting, chaired by Secretary Herman before an audience of 200 disability activists, included panels on health care, education and training, and civil rights. The task force hopes to issue a few recommendations in July, with a fuller report in November. We face particular challenges crafting policies in the health care area. The disability community's highest priorities in this area are: (1) a bill, sponsored by Senators Jeffords and Kennedy and Representatives Bunning and Kennelly, to encourage people with disabilities on the SSDI or SSI rolls to return to work by allowing them to retain Medicare or Medicaid even after they find a job, and (2) a bill known as CASA that would provide greater Medicaid coverage of "community based attendant services" and thereby allow more people with disabilities to live in communities, instead of in nursing homes or other institutions. Both pieces of legislation raise budgetary concerns: in the form advocated by the disabilities community, CASA would cost no less than \$10-20 billion each year. Chris Jennings will work with the Disability Task Force and HHS to develop feasible proposals that will go some way toward responding to the disability community's needs in this area.

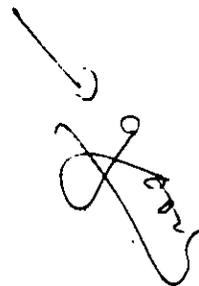
12. Immigration -- H1B Visas: The House Immigration Subcommittee approved by voice vote on Thursday a bill, authored by Rep. Lamar Smith, increasing the cap on H1B visas while making substantial reforms to the program. The bill is surprisingly in line with Administration objectives: although it raises the cap somewhat more than we would (to 115,000) and fails to include a training component, it includes strong provisions to protect U.S. workers from being displaced or passed over in favor of foreigners. Bruce and Gene sent

Yes - we will continue to work on this - please see your file - New York

5-6-98

5

Smith a letter just prior to the mark-up indicating that the Administration would support the bill if it were modified to include meaningful training provisions and a more modest increase in the cap. The full Judiciary Committee mark-up is set for next week, and we expect some movement in our direction. Sally and Elena will brief Democratic staff prior to the mark-up, as well as meeting with representatives of the high-tech community.

A handwritten signature, possibly "Sally", is written in black ink. A thin black arrow points from the top left towards the signature.

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THE WHITE HOUSE
WASHINGTON

THE PRESIDENT WAS TERN

April 24, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Tobacco – Surgeon General’s Report on Minority Smoking: You are scheduled to participate in a White House event on Monday to announce a new Surgeon General’s report on tobacco use among four minority groups (African Americans, Hispanics, Asian Americans, and American Indians/Alaska Natives). The Vice President, Secretary Shalala, Surgeon General Satcher, and Senator Frist will also have speaking roles at the event. (Frist played a key role in getting the Satcher nomination through the Senate; more recently, he played an indispensable part in ensuring that the provisions in the McCain bill on FDA jurisdiction would be acceptable to the Administration.) We will use the event to get minority health groups and Members of Congress invested in this issue, while also sending a broader message about the need to pass comprehensive tobacco legislation.

* (The report, Satcher’s first as Surgeon General, is the first comprehensive compilation of research on tobacco use among minority groups. The report finds that after years of significant decline, the prevalence of smoking increased by 80 percent among African-American youths and by 34 percent among Hispanic youths between 1991 and 1997. The report also notes that Native Americans have the highest rate of smoking of any ethnic group in the nation. The report finds that smoking is a major cause of disease and death among minority populations, and that these populations will experience increased mortality and morbidity from tobacco unless recent trends are reversed. The report suggests that targeted advertising and promotion of tobacco products within minority communities is partly responsible for the recent rise in smoking rates among African-American and Hispanic youth. (The report does not mention a recent article in the New York Times suggesting that minority youth are using more tobacco because they have discovered that it prolongs the high from marijuana.) Finally, the report calls for more research into how best to reduce smoking rates in minority communities.

✓ **2. Tobacco – Legislative Update:** We continue to work toward setting up negotiations on comprehensive tobacco legislation in the Senate, probably involving the Administration, Senators Lott and Daschle (or their designees), and Senators McCain and Hollings. The aim of these negotiations would be to produce an agreed-upon bill to go to the Senate floor, or at least to narrow the contested issues. Erskine, Larry, and Bruce met with Senators McCain, Mack, Kennedy, and Conrad last week, and will meet with a number of other Senators (perhaps including John Kerry, Harkin, Graham, Snowe, Collins, and Jeffords) next week. We probably

will want you to become involved as well next week, by meeting with Daschle and Lott and pressing for negotiations. We will give you a memo soon on our suggestions for handling such negotiations.

✓ **3. Health -- Patients' Bill of Rights Legislation:** Rep. Ganske told Rep. Dingell this week that at least five Republicans have decided to co-sponsor the Dingell/Gephardt patients' bill of rights legislation. The announcement of these Republican co-sponsors, which is expected to come as early as next week, should greatly increase the pressure on the Republican House caucus to support acceptable patients' rights legislation. (We have heard that a Republican House task force is also drafting legislation in this area, but currently intends to include certain "poison pill" provisions involving limitations on medical malpractice suits and expansions of multi-employer welfare associations.) We are reaching out to Reps. Ganske and Dingell to determine if we can set up a meeting next week between you and the new Republican co-sponsors. Such an event almost certainly would receive significant press attention.

● **4. Health -- Assisted Suicide:** A recent study on assisted suicide in the New England Journal of Medicine found that only about three percent of physicians have ever prescribed medications to hasten the death of a terminally ill patient and only about five percent have ever administered injections to do so. The study also found, however, that 36 percent of physicians would write lethal prescriptions and 24 percent would administer lethal injections if such actions were legal. This widely reported study could intensify efforts in Congress to enact legislation to prohibit doctors from assisting their patients to commit suicide. As you recall, Sen. Hatch and Rep. Hyde are prepared to introduce such legislation in the event that the Justice Department opines that the Controlled Substances Act, as currently written, does not prohibit these practices. The Justice Department intends to issue such a decision in about two weeks. We will send you a memo next week that outlines options for responding to Hatch's and Hyde's likely initiative.

✓ **5. AIDS -- Needle Exchange:** As we expected, your needle exchange decision provoked strong criticism from both ends of the political spectrum. On the one side, AIDS advocates and your Advisory Council on AIDS expressed great disappointment that we decided not to release federal funds. DPC, the AIDS office, and others in the Administration have reached out to the AIDS community to explain our decision and explore ways of working together on related initiatives involving HIV prevention and drug treatment. We are also attempting to develop an appropriate way of marking the one-year anniversary of your HIV vaccine initiative. On the other side, Republican members of Congress attacked you for releasing scientific findings that needle exchange can reduce HIV transmission without increasing drug use. Sen. Coverdell introduced legislation to prevent the Secretary from ever releasing federal funds for needle exchange programs, and Rep. Hastert introduced even more extreme legislation that would deny federal funds to any entity using *its own funds* for this purpose. We will work with Legislative Affairs to oppose these initiatives.

6. Education -- D.C. Vouchers: The Republican House leadership currently intends to bring a D.C. voucher bill to the House floor next week. DPC, Legislative Affairs, and the

Education Department are working with Reps. Gephardt and Norton to fashion a message and legislative strategy that builds on your Education Opportunity Zones proposal (e.g., ending social promotions and fixing failing schools) and your budget proposals for D.C. (e.g., supporting the District's new effort to end social promotions and implement proven practices in low performing schools). We think that in addition to pointing out the need to improve our urban public schools, we must convey a hard-edged realism about how to do this. The District's new social promotion policy, as well as its recent action on charter schools (see below), should help us accomplish this task. New York City also announced last week a new proposal to end social promotions, by requiring students to pass tests in the 4th and 7th grades. The press has greeted this proposal very favorably, and generally linked it to your policies. We should use these recent efforts to turn around urban schools as a contrast to the Republicans' strategy of abandonment.

7. Education -- Charter Schools: In the District of Columbia, nineteen applicants for charter schools have received preliminary approval to begin operations, bringing the total number of charter schools to 23. The D.C. Board of Education -- the elected board that was stripped of all powers except those relating to charter schools -- approved nine of these schools; the Independent Public Charter School Board -- a board appointed by Mayor Barry from a list of names compiled by Secretary Riley -- approved the other ten. Among the new schools are: a residential charter school for at-risk middle school students, an adult education center for immigrants, and a "hospitality" high school organized by the area's hotel industry.

In California, Silicon Valley high-tech executives are supporting a ballot initiative that would make it easier to start charter schools in the state and would lift the current cap on the number of charters. The California Teachers' Association (CTA), although professing support for the concept of charter schools, has come out strongly against the proposal. The executives and CTA are now negotiating over a possible legislative alternative to the initiative. Some observers believe that they could reach agreement and that the California legislature could adopt the compromise approach as early as next week. We will provide you a status report before your trip to California.

8. Education -- National Board for Professional Teaching Standards: A bipartisan group of eight governors (Hunt, Locke, Chiles, Carper, Voinovich, Racicot, Branstad and Thompson) wrote a letter last week to Bill Goodling to express support for the National Board and for your funding request. The letter also went to the other chairs and ranking members of the relevant authorizing and appropriations committees.

9. Crime -- Chicago Gang Ordinance: The Supreme Court decided on Monday to review a state court decision invalidating Chicago's Gang Congregation Act. This law, challenged by the ACLU on the ground that it violates due process, authorizes police officers to order individuals loitering in public places to disperse if the officer "reasonably believes" the individuals belong to a criminal street gang. Individuals who refuse to abide by the officer's order are subject to up to 6 months in prison. Chicago argues that the law led to a significant drop in gang-related violence; its petition to the Court was supported by 13 states, a wide variety

of community organizations, and all the major organizations representing local government officials, including the U.S. Conference of Mayors, National League of Cities, National Association of Counties, and International Association of Chiefs of Police. We will meet with Rahm and Counsel's Office next week to discuss whether the Justice Department should file a brief in the case and, if so, what it should argue.

10. Crime -- Survey of Jail Inmates: The Justice Department's Bureau of Justice Statistics will release a study this weekend on jail inmates. In 1997, local jails across the country held 567,079 inmates -- up 40 percent from the 1990 level of 405,320. A survey of these inmates showed:

- **Inmate Demographics:** Ninety percent of the inmates were male and 10 percent were female. Thirty seven percent were white; 41 percent were black; 19 percent were Hispanic; and four percent were Asian, Pacific Islanders, American Indians or Alaska natives.
- **Drug use up:** More than half of all inmates used drugs in the month before their offense, compared to 44 percent in 1989, the last year for which there are reliable statistics. A full 82 percent used drugs at least once in their lives (78 percent in 1989); 78 percent used marijuana (71 percent in 1989); 50 percent used cocaine (same in 1989); 34 percent used stimulants (22 percent in 1989); 32 percent used hallucinogens (24 percent in 1989); and 24 percent used heroin (19 percent in 1989).
- **Violent crime charges slightly up:** The percentage of inmates charged with violent crimes increased from 23 percent in 1989 to 26 percent in 1996; the percentage charged with drug offenses was unchanged at 22 percent.
- **Majority already under criminal justice supervision:** Fifty four percent of jail inmates were already under the jurisdiction of the criminal justice system (usually under probation) at the time of their arrest.
- **Many on welfare or unemployed:** Thirty nine percent of all inmates were raised in families that received welfare or public housing assistance. At the time of their arrest, 20 percent were receiving some form of government assistance, such as welfare, SSI, or unemployment compensation. Over one-third (36 percent) were unemployed.
- **History of sexual or physical abuse common:** Forty eight percent of female inmates and 13 percent of male inmates were sexually or physically abused at least once in their lives. Twenty seven percent of women and 3 percent of men were raped.

11. Drugs -- Republican Task Force on Drugs: Speaker Gingrich and Reps. Hastert and Portman will unveil a "Drug-Free America Strategy" on Thursday. Republican talking points we have seen are notably short on substance. They call for attacking the Administration

on needle exchange and calling for a three-front war to "deter demand," "stop supply," and "increase accountability." The talking points then refer to "possible legislation" on: Drug-Free Schools, Drug-Free Workplaces, Drug-Free Prisons, Drug-Free Borders, Drug-Free Hemispheres, Drug Czar Reauthorization, and Drug-Free Money Laundering. When we know more, we will give you further information.

✓ 12. **Immigration -- H1B Visas:** DPC and NEC have worked with a number of agencies to develop a legislative proposal that would temporarily increase the number of foreign workers who can enter the United States under the H1B program, while expanding training opportunities and reforming the program to ensure it does not operate at the expense of Americans. Elena and Sally Katzen met last week with Reps. Lamar Smith, Mel Watts, and Zoe Lofgren to explain our proposal, and we will give legislative language to their staffs next week. Smith seems genuinely committed to bipartisan cooperation on this issue, and we hope that this process will lead to a better bill than the Abraham-sponsored legislation passed by the Senate Judiciary Committee on a straight party-line vote last month.

✓ 13. **Welfare Reform -- Campaign to Prevent Teen Pregnancy:** Secretary Shalala will host a reception on Thursday for this year's honorees of the Campaign to Prevent Teen Pregnancy. The honorees include: Governor Carper; NBC; the Teen Outreach Program; Students Against Destructive Decisions (SADD); The Children's Network, a conflict-resolution program in San Bernadino; Dayton-Hudson (Target Stores); and Jerry Tello and Geoffrey Canada for their work on male involvement. The Secretary will announce the honorees, read a Presidential Message for Teen Pregnancy Prevention Month, and release a report containing previously released data on teen births. As you know, the data show that the number of teen births has declined from 1991 to 1996, but remains unacceptably high. Following the reception, the Campaign will hold a press briefing on the Hill with its Congressional Task Force to release a new report highlighting the critical role that parents and other adults can play in reducing teen pregnancy.

✓ 14. **Service -- Philadelphia Service Summit:** General Colin Powell will issue a report on Monday on what America's Promise has accomplished in the year since the service summit. He is expected to focus on corporations that have made new commitments or followed through on prior ones, and on communities that have continued the summit's work. His report will also include an update on federal agency commitments. He will present his report in Chicago to a special meeting of the U.S. Conference of Mayors.

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DPC Weekly Report
1998 APR 17 17:47

THE WHITE HOUSE
WASHINGTON

April 17, 1998

THE PRESIDENT HAS SEEN
4-21-98

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

1. Crime -- School Safety: The Department of Education is preparing to release a report on the impact of the Gun-Free Schools Act (GFSA) during the 1996-97 school year. As you know, the GFSA generally requires all states receiving funds under the Elementary and Secondary Education Act to expel students who bring a firearm to school for a period of at least one year. The report found that 7,326 students were expelled during the 1996-97 school year for bringing a firearm to school, an increase of about 10%. Colorado reported the highest number (1,873) and rate (2.573 per 1,000 students) of expulsions. Other high-expulsion states include: Ohio (937), California (723), Texas (532), Missouri (318) and Illinois (250). DC, Hawaii, Guam, Puerto Rico and Wyoming reported no expulsions.

Of the 3,246 expulsions where the type of firearms was identified, 58% involved handguns, 7% involved rifles, and the remaining 35% involved some other type of firearms (bombs, grenades, starter pistols, rockets). The report also found that high school students were the most likely to carry a firearm. Of the 5,352 expulsions where the student's school level was reported, 57% were in high school, 35% were in junior high and 8% were in elementary school.

2. Crime -- Missing Children: On Thursday, the Justice Department launched a missing and exploited children web site. The site tells kids where to go if they are lost or need help, and provides tips on how they can avoid being exploited on the Internet. The site provides information to parents on how to best protect their children, and steps they can take if their child is missing. In addition, the site includes information on available law enforcement training for investigating child kidnaping and abduction cases, and links to missing children web sites in other countries.



3. Drunk Driving -- .08 BAC Report: Next week, the Transportation Department will transmit a report prepared in response to your March 3 directive to promote the adoption of .08 BAC as the legal limit for impaired driving. The Transportation report recommends that the National Park Service, Defense Department, and U.S. Coast Guard begin rulemakings to lower the legal limit to .08 BAC on military installations, national parks, and waterways. It also reports that Defense will transmit legislation to Congress to amend the Uniform Code of Military Justice to provide for the punishments for violating a .08 limit on military bases.

4-21-99

4. Tobacco -- Senate Strategy: As you know, the Commerce Committee vote two weeks ago brought new momentum to our effort to enact a strong, comprehensive tobacco bill, and the industry's response should only add to that momentum, by making it even harder for Members of Congress to block legislation, lest they look as if they are doing the industry's bidding.

Given these new developments, we thought it made sense for Erskine, Larry and the two of us to meet with key Senators when they return to town next week. We will meet first with Daschle and then, separately, with McCain, to discuss how to negotiate improvements to the McCain bill, hopefully before it goes to the floor, and to devise an amendment strategy. We will also meet individually with Senators Breaux, Conrad, Durbin, Lautenberg and Kennedy, to address their concerns and enlist their help in advancing the key improvements we seek in the bill. We will stress to all our commitment to enacting comprehensive tobacco legislation this year, and will try to impress upon them that we should be reasonable in our demands, lest the entire legislative effort should fall apart. We also plan to meet with key public health leaders -- we met with Dr. Koop on Thursday, and plan to meet soon with Dr. Kessler, and with members of the coalition of public health groups working hardest to enact legislation (American Cancer Society, American Heart Association, and Campaign for Tobacco-Free Kids).

Very important to her

5. Education -- National Board for Professional Teaching Standards: We have been working closely with the National Board for Professional Teaching Standards and our allies in Congress to ensure that Goodling's provision to end federal funding for the Board is stripped from the Higher Education Act before Congress completes action on that bill. The bill reported by the Senate Labor and Human Resources Committee contains no such provision, and we believe there is little chance that a similar provision will be added on the Senate floor. The House is likely to take up the Higher Education Act in late April or early May, when it comes for a vote it is expected to pass by a wide margin. The National Board is eager to avoid a floor fight in the House, and has urged that you hold off on a veto threat until the bill goes to conference. We lack the votes to defeat Goodling on the floor, and the Board does not want to precipitate a recorded vote against it in the House. We believe that you should use the April 24 National Teacher of the Year Event to express your deep concern over this provision and pledge to work with Congress to remove it before the bill crosses your desk.

6. Community Empowerment -- Fair Lending: The Federal Reserve Bank has issued an advanced notice of proposed rulemaking that asks for comment on whether Regulation B should be amended to permit lenders voluntarily to collect information about the race and gender of applicants for non-mortgage credit. The prohibition on collection of this data inhibits monitoring by regulators, self-testing by the financial services industry, and enforcement by the Department of Justice and the Federal Trade Commission, with respect to discrimination in the non-mortgage lending markets. Amending this prohibition is one of the top priorities for community groups. We are working closely with Treasury, Justice, and the NEC to draft a letter by May 29 in support of a rulemaking.

Good

4-21-98

7 **Health Care -- Kennedy Employer Mandate Legislation:** Next Wednesday, Senator Kennedy is scheduled to introduce a health care employer mandate bill. This bill, which has the strong support of the labor community, would require that all firms with 50 or more employees provide coverage that is equivalent to the Federal Employees Health Benefit Blue Cross/Blue Shield standard plan. Employers would be required to contribute approximately 75 percent of the cost of coverage with the remainder coming from the employee. While this legislation will not go anywhere in this Congress, Senator Kennedy would like to force a Senate vote on this bill sometime this year. Although any employer mandate would significantly expand coverage, this legislation would not affect the over 20 million uninsured Americans who have workers in firms with less than 50 employees and could have the adverse effect of encouraging firms to split or subcontract out in order to avoid the mandate. Moreover, the absence of subsidies may make it difficult for some employees to afford the premiums, even though employers would have to contribute 75 percent. Senator Kennedy's office had initially requested that the First Lady or some representative from the Administration consider attending this event, but now is willing instead to accept a generally positive statement from the White House. We recommend such a statement commend Senator Kennedy for his longstanding commitment to coverage expansion without giving an all-out endorsement. Implicit in our comments will be the suggestion that we primarily focus on the issues this year that have a chance of being enacted by a Republican Congress.

8 **Welfare Reform --New York Results:** Last month you asked whether we had any explanation for the recent report that only 29 percent of the cases who left the rolls in New York State in March of 1997 were working in the next quarter, compared to rates of 50 to 60 percent in other states. (other leave due to marriage, their youngest child turning 18, an increase in child support, receipt of SSI, increase in earnings by another family member, or sanctions).

Our review uncovered several problems with these data, which were gathered from the state's wage reporting system. First, the data were incomplete -- not all employers had reported for this quarter at the time the data were compiled. Looking at data from March of 1996 -- which found 39 percent showed earnings in at least one of the three quarters after leaving welfare -- produces figures that are somewhat closer to the experience in other states. In general, there appear to be lags in reporting new employees and employer reporting may also be worse in New York because the state's wage reporting system is not directly linked to the unemployment insurance system the way it is in most places.

This system also undercounts employment, though we do not know by how much. It ignores some self-employment, "off the books" wages, and work in other states. The statewide figure also masks variation within the state: for cases closed in March 1996, 31 percent had wages reported in a subsequent quarter in New York City, compared to 47 percent in the rest of the state. Apparently NYC historically has a high level of "administrative churning", i.e. cases closed due to various errors then reopened, which we wouldn't expect to have earnings in a later quarter.

1-21-98

9. Immigration -- H1B Visas: Representative Lamar Smith, Chair of the House Judiciary Subcommittee on Immigration, has made an offer to Representative Mel Watt (ranking member) to develop a bipartisan bill to temporarily raise the cap on H1B visas for highly skilled temporary foreign workers that, unlike the Abraham-Hatch bill in the Senate, includes reforms to the H1B program that target their use to employers that are experiencing genuine skill shortages. We are having discussions with members of Congress to develop reform language that is consistent with the Administration's objectives. Representative Smith is holding a hearing on this issue on Tuesday, April 21.

10. Child Care -- Rose Garden Event: We are planning a Rose Garden event on Thursday, April 23 with you and the First Lady to place pressure on Congress to take action on your child care. That day, Secretary Rubin's Working Group on Child Care will issue a final report on private sector investment in child care and best practices. In addition, the Department of Labor will issue its report on child care, focusing on corporate models gleaned from the Women's Bureau's Honor Roll.

THE WHITE HOUSE
WASHINGTON

April 10, 1998

Copied to
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4-13-98

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Crime -- School Violence Report: This weekend, DOJ's Bureau of Justice Statistics and Education's National Center for Education Statistics will release a joint report comparing school crime in 1989 and 1995. The report is based on interviews with a nationally representative sample of approximately 10,000 students ages 12 to 19. It found that the overall level of victimization in schools in 1995 was similar to that in 1989 (14.6% versus 14.5%), violent crimes increased slightly (from 3.4% to 4.2%), and property crimes decreased slightly (from 12.2% to 11.6%). The overall availability of drugs increased slightly (from 63.2% to 65.3%), with marijuana remaining the most readily available drug -- and 6% more students reporting that it was easy to obtain (from 30.5% to 36.4%). The number of students reporting gangs in their schools increased dramatically (from 15.3% to 28.4%).

The report found that, as compared to their private school counterparts, public school students were twice as likely to report being a victim of violent crime in 1995 (4.4% versus 2.3%), more likely to report the availability of drugs in their schools (67.2% versus 48%), four times more likely to report the presence of gangs in their schools (30.6% versus 6.8%), and three times as likely to have known or seen another student who brought a gun to school than were private school students (13.6% versus 4.4%). In all these areas, the gap between public and private schools has widened dramatically since 1989.

2. Crime -- COPS: On April 16, the COPS office will announce grants for \$52.8 million to fund 840 new and redeployed officers. The grants will be awarded to 145 law enforcement agencies across the country. Thursday's announcement will bring the total number of officers funded through the COPS program to over 73,000.

3. Welfare Reform -- Survey of Businesses: The Welfare to Work Partnership just released the results of the first in a series of surveys conducted by the Wirthlin group of 400 of the Partnership's 3,200 business partners. Governor Carper, who co-chairs the Partnership's National Advisory Council with Governor Thompson, announced the results of the survey in an interview with NPR on Thursday. The survey found that 79% of the businesses interviewed expect to hire someone off welfare this year, 76% of those who have hired welfare recipients found their new

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hires are good, productive employees, and 72% of welfare recipients are getting full-time jobs with medical benefits. Welfare recipients have retention rates at least as high as other new hires: Companies such as United and Burger King say that the turnover rate for welfare recipients is half that of other employees. The survey found that 12% of small companies and 31% of large companies are using the Work Opportunity Tax Credit or the Welfare-to-Work Tax Credit. More than half of the companies consider employee transportation a problem, with more than a third saying it's a serious problem. Frequently cited problems were that welfare hires could not afford a reliable car and that public transportation does not run near the company or during the hours needed.

4. **Community Empowerment – Community Reinvestment Act (CRA):** We are working with the NEC and Treasury on a stealth initiative that would build on your reform of CRA. H.R. 1151, the Credit Union Membership Access Act, includes a provision that would apply CRA-like requirements to credit unions. The bill requires that all insured credit unions have "a continuing and affirmative obligation to meet the financial services needs of persons of modest means," and requires the National Credit Union Administration to prescribe criteria to insure that all credit unions are meeting this obligation. We are maintaining a low profile on this issue for fear that Republicans will strip the provision from the bill should it be tied publicly to CRA. However, if this provision passes Congress intact, it would be the first expansion of CRA-like requirements since the law was enacted in 1979.

5. **Health Care – Patients' Bill of Rights Update:** Following the introduction of the Democratic patients' bill of rights legislation, the American Medical Association board unanimously endorsed the Democratic bill and committed to working for its enactment this year. Unlike the tobacco legislation, the patients' bill of rights has much greater support in the House than in the Senate. Despite this fact, the House Republican leadership is sending signals that they want to delay this legislation as long as possible. We are developing a legislative and communications strategy to try and expedite their action to introduce a bill sometime in May. We will work with the AMA and Congressman Ganske (who has indicated he will cosponsor the Democratic bill) to attract as many Republicans co-sponsors as possible to the Democratic legislation. While we are hopeful that we can attract Republican co-sponsors, we believe that it may be necessary to do more public events to apply additional pressure to the House. We are trying to meet with Representative Hastert, the Gingrich-appointed chair of the House Republican Task Force on Quality, to encourage him to expedite the Republican House bill and let him know that you will not let this issue go away and want to work together to get it done.

6. **Health Care – Medicare Fraud Update:** In response to unprecedented efforts at the Justice Department and HHS to crack down on fraud and abuse, health care providers, and in particular hospitals, are raising major objections to what they believe to be overly aggressive enforcement activities. To address these concerns, the Justice Department has agreed to stop letters that hospitals find threatening. However, they are rejecting the American Hospital Association's request to slow down their enforcement activities in this area. Ironically, some of the same Hill members who complained a few years ago that the Administration was not doing

enough to fight fraud and abuse, are now complaining that we are acting too tough in this area. Nonetheless, an Inspector General's report to be released later this month will cite that, while the Administration is doing a better job of fighting fraud and abuse, there are still significant overpayments in the Medicare program. We are working to see if we can release a regulation around the time of the report that rewards Medicare beneficiaries who report fraud and abuse. While we do not intend to back down with regard to enforcement activities, we will indicate that we will be sensitive to concerns about process.

7. Health Care – Missouri Medicaid/Children's Update: As you know, Governor Carnahan has expressed his frustration that HHS is not moving fast enough on both Missouri's children's health insurance program and 1115 Medicaid waiver. In fact, he has been asking for meetings with the Vice President on this issue. These negotiations have been complicated by the fact the Missouri has continued to rely on what appear to be illegal provider taxes. We believe that we are close to resolving the provider tax issue as well as a host of other outstanding issues. Governor Carnahan is scheduled to meet with Secretary Shalala next week and at that meeting, or before, we hope to have all of these issues surrounding their application resolved.

8. Children and Families – Vice President's After-School Teleconference: On Thursday, April 16th, the Vice President and Secretary Riley will hold a national teleconference on the importance of providing after-school opportunities for school-age children. Reaching over 300 downlink sites in communities across the country, the teleconference will focus on model programs and new resources from local, state and federal agencies, including the 21st Century Community Learning Centers program. Senator Jeffords will also participate in the event.

9. Tobacco – Cigar Study: NCI released a study today which shows that daily cigar smoking can be just as lethal as cigarette smoking, causing cancer of the mouth, throat, larynx, esophagus and lung. Regular cigar smokers who inhale have 27 times the risk of oral cancer (compared to non-smokers), 53 times the risk of cancer of the larynx, and double the risk of chronic pulmonary disease. The report concluded that cigars are not safe alternatives to cigarettes and may be addictive.

According to the report, three-quarters of cigar smokers smoke only occasionally, and the majority do not inhale. (The risks of occasional cigar smoking – less than daily – are not known). Since 1993, cigar sales in this country have increased by 50 percent, reversing a 20-year decline in cigar smoking. Most of the increase is among teenagers and young men. One Massachusetts survey found that 3.2 percent of sixth graders had smoked a cigar in the last month, rising to 30 percent in high school.

The McCain bill provides the FDA with the authority to regulate all tobacco products -- including cigars. However, the FDA would first need to provide scientific evidence that cigars are addictive, and that evidence does not yet exist.

4-6-98

THE WHITE HOUSE
WASHINGTON

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April 4, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Tobacco -- Next Steps: Following the Senate Commerce Committee's 19-1 vote in favor of tobacco legislation, Senators Lott and McCain indicated that the bill probably will go to the floor during the week of May 18, just prior to the Memorial Day recess. We understand that they want to have some kind of leadership agreement in place before bringing the bill to the floor, and we think such an agreement is in our interest as well. We are inclined to propose a budget-like process involving Lott, Daschle, McCain, and Hollings. In the meantime, we will meet with Daschle's staff to discuss our priorities for strengthening the legislation; work with McCain's staff to incorporate technical changes in a manager's amendment; and try to persuade a bipartisan coalition to introduce the McCain bill in the House in order to generate momentum there.

2. Tobacco -- Study on Teen Tobacco Use: On April 2, in conjunction with Kick Butts Day, the CDC released a new study ("Tobacco Use Among High School Students -- United States 1997") which found that cigarette smoking rates among high school students rose by nearly a third between 1991 and 1997, from 27.5 percent to 36.4 percent. Cigarette smoking was highest among white students, rising by slightly more than a quarter, from 31 percent in 1991 to 40 percent last year. The level of cigarette smoking among African-American students was lower than for whites, but increased by a full 80 percent, from 12.6 percent to 22.7 percent. In the first-ever measure of teen use of all tobacco products, the study found that 43 percent of high school students -- nearly half of male students and more than a third of female students -- used cigarettes, cigars, or smokeless tobacco during the previous month. The 1997 data was derived from a survey of over 16,000 students in grades 9-12.

3. Tobacco -- Farmers Legislation: You are currently scheduled to travel to tobacco country (probably Kentucky) on Thursday to discuss the need to protect tobacco farmers and their communities as part of comprehensive tobacco legislation. (Secretary Glickman went to Kentucky yesterday and got a good reception.) This trip will give you an opportunity to express strong support for the plan to protect tobacco farmers that is in Senator McCain's tobacco legislation. This plan, sponsored by Senators Ford and Hollings, attempts to address the needs of both burley and flue-cured tobacco farmers. It maintains a production control system for all tobacco farmers, with provisions for payment to the farmers if and to the extent that the national production level falls. For burley tobacco, the plan offers current quota holders a one-time

opportunity to sell their quotas at a price of \$8 per pound; for flue-cured tobacco, the plan requires all current quota holders to sell at this price, but then issues "permits," which serve much the same function as quotas but are inalienable, to those who actually grow tobacco. The bill also provides assistance to tobacco-producing communities. The entire package would cost \$2.1 billion per year in the first ten years and \$500 million in years 11-25 for a total of \$28.5 billion. For the most part, tobacco farmers are pleased with the proposal included in the McCain legislation, far preferring it to Senator Lugar's alternative plan to buy out all quota holders at \$8 per pound and discontinue any further tobacco supports.

4. Health -- Patients' Bill of Rights: The Democratic Leadership introduced its version of the patients' bill of rights last Tuesday in a ceremony attended by Secretary Herman. Your letter to the Leadership, which indicated strong support for the bill without outright endorsing it, was well received. The bill includes all the patient protections recommended by your Quality Commission. It also contains a strong enforcement provision, which would allow states to pass laws enabling individuals to bring damage suits in state courts for violations of these rights. (In the absence of this provision, the Employment Retirement Insurance Security Act (ERISA) would limit individuals to an action in federal court to compel provision of the health benefit at issue.) As you know, the business and insurer communities strongly oppose this enforcement provision on the ground that additional litigation against health plans will result in significantly increased costs. The business community also fears that this provision would set a precedent for allowing states to add to the remedies provided in ERISA in areas other than health care (e.g., pensions). The legislation also includes a compromise "whistleblower protection" provision that is acceptable to the labor community while not raising serious objections from the hospital community. We helped Congressman Dingell and Senator Kennedy draft this compromise provision.

✓ **5. Health -- Children's Health Insurance:** Last Wednesday marked the sixth-month anniversary of the new Children's Health Insurance Program (CHIP). To mark the occasion, Secretary Shalala, in an event with Bruce and Gene, announced the approval of the New York and Illinois children's health plans. With these two approvals, eight states have now entered CHIP, providing health care coverage for more than one million children. At the event, we also released a DPC/NEC report on the rapid implementation of the new program. The report shows that an additional 15 states have submitted proposals to HHS to expand health care coverage and that virtually every other state has a process underway to submit a proposal. We anticipate approving Michigan's children's health program next week, possibly in conjunction with a children's health outreach event in which the First Lady is scheduled to participate.

John ✓ **6. Health -- Provider Tax Legislation:** HHS sent legislation to the Hill on Thursday to give Secretary Shalala additional authority to limit the liability of states with illegal Medicaid provider taxes, as long as they agree to comply with the law in the future. As you recall, the issue of provider taxes came to the fore last fall after you line-item vetoed a provision of the Balanced Budget Act approving New York's use of provider taxes. At that time, we agreed to postpone bringing suit against non-complying states (including New York) until August, while

we sought this legislation. Our efforts so far have not borne fruit, because (1) Members from states without provider taxes believe the Administration should seek reimbursement from non-complying states, and (2) Members from States with provider taxes (including New York, which just succeeded in getting your line item veto reversed) doubt that we will enforce provider tax rules in any event. We hope that sending up our own legislation will prompt Congress finally to address this issue, or at least demonstrate our own preference for less drastic remedies when we begin in August to initiate enforcement actions.

7. Crime -- Assault Weapons: In response to the directive you issued in November, the Treasury Department has decided to recommend halting the importation of five basic kinds of modified assault rifles (including AK-47s and Uzis), affecting over 50 specific models. The Department will say that these models do not comply with the "sporting purposes test" of the Gun Control Act of 1968 and thus cannot lawfully be imported. The Treasury recommendation recommends banning all the models you told the Department to study. We will leak the Treasury report to all major papers for Monday morning, and you will formally accept the recommendations that day at an event in the Rose Garden.

8. Safety -- .08 Law: The House Rules Committee decided last Tuesday not to allow a vote on the Lowey amendment to ISTEA legislation. As you know, this amendment would ensure that states adopt .08 blood alcohol content (BAC) as the standard for impaired driving. We held two press events at the White House with Administration officials and Rep. Lowey to continue our push for .08 legislation. In addition, your radio address this week includes a strong attack on the House action. Because the Senate adopted an identical .08 amendment by a 62-32 vote, we believe we stand a decent shot of ultimately prevailing on this issue.

9. Welfare Reform -- Federal Hiring Initiative: The Vice President will participate in an event on Thursday to mark the one-year anniversary of the Cabinet meeting in which you asked federal agencies to develop plans to hire welfare recipients. The initiative is proceeding well. Agencies have hired nearly 3,700 welfare recipients, putting them on track to meet the government-wide goal of 10,000 by the year 2000. The Vice President will announce these numbers, release an annual report (containing a brief message from you) that highlights agency accomplishments, and encourage companies that do business with the federal government to participate in the welfare-to-work effort. We have prepared letters to Cabinet members for your signature thanking them for their leadership on this issue and encouraging them to strengthen their efforts.

10. Welfare Reform -- APWA Resolution: The American Public Welfare Association passed a resolution last week urging Congress to enact the two welfare-related initiatives in your FY99 budget: the \$100 million-per-year Access to Jobs welfare-to-work transportation initiative and the \$283 million-per-year proposal to provide 50,000 welfare-to-work housing vouchers. The Access to Jobs initiative is now authorized at \$150 million in both the House and the Senate ISTEA reauthorization bills, so prospects for this initiative look promising. Our housing voucher proposal is in more trouble. Although many in Congress

support using housing vouchers to enhance welfare-to-work efforts, unrelated concerns about the Section 8 program will make getting funding for these vouchers an uphill fight. We are working with HUD, DOT, HHS, and DOL on a joint secretarial event to rally support for both initiatives in the appropriations process.

11. Welfare Reform -- Food Stamps for Legal Immigrants: Senator Lott has put a hold on an agricultural research bill reported out of conference last week because of provisions in the bill to restore food stamps to some legal immigrants. The Conference Committee agreed to use \$818 million of a \$1.9 billion reduction in the food stamp program's administrative costs to extend eligibility for food stamps to certain refugees, asylees, Hmong immigrants, disabled, elderly, and children. The package is less generous than your \$2.5 billion food stamp proposal, most notably because it would cover only children in the United States on the date of enactment, whereas your proposal would cover both children and their parents, and regardless whether they are in the United States now or come in the future. But even this limited conference committee proposal (which the Administration fought hard for) outraged some Senate conservatives, who accused it of overriding the welfare law. And others, including Senator Lott, objected to the conference agreement because they want to use the entire \$1.9 billion offset to fund transportation projects. We will work with OMB, Legislative Affairs, and Public Liaison to mount an effective opposition to Lott's decision.

12. Welfare Reform -- High Performance Bonus: Rep. Shaw has taken issue with our proposed formula for distributing high performance bonuses under TANF because it relies exclusively on measures relating to work (promoting job entry, job retention, and earnings gain), and does not include measures relating to family composition (e.g., increasing two-parent families and reducing out-of-wedlock births). We adopted this approach in light of (1) the difficulty of developing family formation criteria that fairly measure state performance, and (2) the existence of a separate bonus focused on illegitimacy. Shaw contends, however, that our proposal is odds with the purpose of the high performance bonus under the statute. We and HHS will meet with his staff and attempt to resolve this issue in an amicable manner.

13. Child Support -- Penalties Legislation: The Senate voted unanimously on Thursday for a bill to set realistic penalties for states' failure to put in place statewide computer systems to track parents who owe child support. The bill, which the House previously passed by a vote of 414-1, will soon come to you for signature. As you may recall, the legislation, which we helped to develop, sets penalties at four percent of federal child support funds in the first year of noncompliance, going up to a high of 20 percent in the fifth year and thereafter. The legislation further provides for a state to get a rebate of a portion of the penalties once HHS certifies its computer system.

14. Children and Families -- After-School Event: In response to a recent DPC memo on your education agenda, you indicated an interest in doing an after-school event. We are planning an event in May to: (1) announce the first grants of the Department of Education's new 21st Century Learning Centers Program; (2) release a joint report by the Departments of Justice

and Education on the extent to which after-school programs reduce crime and improve school performance; and (3) name the pilot cities for the Administration's effort (announced as part of your child care initiative) to coordinate federal funding and oversight of after-school programs. This event could take place at a high quality after-school program (like the one at Temple University you suggested), or a program that will receive one of the new 21st Century Learning Centers grants. By showing how after-school programs can keep children safe and improve their school performance, the event should help to build support in the appropriations process for our proposed expansion of the 21st Century Program. The Department of Education and DPC are working closely with Senator Jeffords to ensure his strong advocacy of this proposal.

15. Education -- National Board for Professional Teaching Standards: We are working closely with Governor Hunt and the National Board to reverse the action of the House Education and Economic Opportunities Committee to eliminate the Board's federal funding. The Senate Labor and Human Resources Committee is scheduled to mark up the Higher Education Act this week, and we think we will be able to prevent the Committee from including a similar provision. Once the mark-up is complete, we believe that a high-profile veto threat would be an effective way to influence further Congressional action on this issue. Your scheduled event with the National Teacher of the Year on April 24, right after Congress reconvenes, would be a good time to issue this veto threat.

16. Political Reform -- Free Television Time: Chairman Kennard and key members of Congress agreed last week that the Federal Communications Commission (FCC) would put off issuing a Notice of Rulemaking to establish a system of free broadcasting time, and instead issue a simple Notice of Inquiry (NOI) to review the issue. This agreement, which was supported by all the major political reform groups, will forestall Congressional efforts to prevent the FCC from addressing the issue of free TV at all. The agreement also establishes a sensible timetable for implementing a free TV rule. Your Advisory Committee on Public Interest Obligations of Digital Television Broadcasters should finish its work this coming Fall; after that, the FCC can go forward with its rulemaking proceeding. If the Advisory Committee proposes a workable compromise between the broadcasters and the reformers, the prospects for a successful FCC rulemaking will increase significantly.

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THE WHITE HOUSE
WASHINGTON

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March 20, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Tobacco -- Senate Commerce Committee Activity: We have been meeting regularly with staff for Sens. McCain and Hollings, as they try to put together a comprehensive tobacco bill that a bipartisan coalition on the Commerce Committee can support. McCain is very pleased with our cooperation, as we are with his genuine desire to gain our support, and he is aiming to complete a mark-up before the April recess. But at least two serious obstacles remain. First, many Republicans -- including Sens. Jeffords and Hatch, who are not on the Committee, but whom McCain feels he must work with closely -- object to our proposal on FDA authority. Whereas we want Congress to affirm that the FDA can regulate tobacco products under its normal drug-and-device authority, these Senators want Congress to create a separate -- and we believe, less potent -- statutory scheme to govern the regulation of tobacco products. We have met with a bipartisan group convened by McCain and Hollings -- including staff for Sens. Hatch, Jeffords, Kennedy, and Conrad -- to discuss this issue, but so far have made little progress. One problem is that the Republicans have no incentive to give us what we want on FDA jurisdiction until they know whether we will approve the limits they want on the tobacco companies' liability.

But we will get any

Second, Sen. Daschle will pressure Democrats on the Committee to oppose any bill with liability protections, regardless of what else is in it. Daschle argues that if Congressional Democrats give up liability limits as an issue now, they will find it more difficult to get what they want on spending priorities later. (The Commerce Committee bill will not address the issue of how to spend the revenues it generates.) But because McCain believes he must include some liability limits in his bill -- he is leaning toward the Chafee-Harkin model of a cap on annual damages, with no limitations on class actions or punitives -- Sen. Daschle's approach poses a risk of wholly derailing the Commerce Committee effort. Although Daschle will not be able to control the votes of Hollings, Ford, or Breaux, he could persuade Inouye, Wyden, and Kerry, who are now generally supportive of McCain's effort, to repudiate the legislation. At that point, McCain might decide to abandon the project, rather than face a partisan attack on this issue. Erskine and Larry will talk with Daschle this week to ask him not to discourage Committee Democrats from supporting an otherwise good bill.

2. Tobacco -- State by State Numbers: In a speech to the PTA on Monday, the Vice President will unveil new Treasury Department statistics demonstrating that your tobacco plan

will cause a significant reduction in youth smoking -- and therefore in premature deaths -- in every state in the nation. As you recall, you announced last month that over the next five years, your plan would deter 3 million American teens from smoking and prevent one million from dying prematurely. The new Treasury statistics break down these figures on a state-by-state basis, showing for example that California alone will have 83,000 fewer tobacco-related deaths. We are giving these numbers to the state Attorneys General for separate announcements on the same day; after the Vice President holds a conference call with them in the morning, many will hold news conferences to release the numbers and demand that Congress pass bipartisan, comprehensive tobacco legislation. Later in the week, Deputy Secretary Larry Summers will give a speech at the George Washington University School of Public Health on the economic costs of smoking.

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3. Crime and Drugs -- Conference on Drug Treatment: The Justice Department, ONDCP, and HHS will hold a three-day conference on drug treatment in the criminal justice system next week. The conference will explore effective drug treatment services, obstacles to their adoption, and gaps in scientific knowledge on drug addiction. The Attorney General will unveil a new legislative proposal -- developed pursuant to your January 12, 1998 directive -- to allow states to use their Federal prison construction and substance abuse treatment funds to provide a full range of drug testing, treatment, and sanctions for offenders under criminal justice supervision.

4. Crime and Drugs -- Probation Study: The Department of Justice will release the first survey of the nation's 3.2 million probationers on Sunday. The survey found that:

-- Forty percent of all probationers were under the influence of alcohol, and another 14 percent were on drugs, at the time they committed the criminal offense for which they were sentenced.

-- Almost 70 percent of probationers reported past drug use, 32 percent during the month of their arrest. Overall, 67 percent had used marijuana, 31 percent crack or other forms of cocaine, 25 percent stimulants, 20 percent hallucinogens, 15 percent barbiturates, and 8 percent heroin or other opiates.

-- Almost half of all probationers reported having been tested for drug use while on probation. This figure rose to 65 percent among those who had used drugs during the month before their criminal offense, and to 74 percent among those who committed their offense to obtain drug money.

-- About 17 percent of all probationers reported participating in a drug treatment program during their sentence, but this percentage rose as the severity of their prior drug use increased. More than half -- or 52 percent -- of probationers who were on drugs when arrested had participated in a drug treatment program.

-- Sixty four percent had driven a car while drunk or drugged; 50 percent had been involved in a domestic dispute while drunk or high; and 35 percent had consumed as much as a fifth of a gallon of alcohol in a single day.

5. Crime -- COPS: The COPS Office will announce on Thursday \$58 million in hiring grants to 285 police departments to fund about 900 additional officers. This announcement will put the total number of officers funded through the COPS Program at over 72,000.

6. Health -- Patients' Bill of Rights I: Rep. Gephardt is insisting that the Democratic Leadership's version of patients' rights legislation include whistleblower protections for hospital employees. Although we are sympathetic to these protections, we believe their addition to the bill would diminish the prospect of passing legislation this year. Rep. Dingell believes equally strongly that including whistleblower protections would be a strategic mistake, because they would prevent Blue Dog Democrats like Reps. Stenholm, Tanner, and Barry from supporting the bill. Indeed, Dingell has said that he would reconsider his decision to be the bill's lead sponsor in the House -- still further decreasing the chance of Congressional action -- if these provisions were added. We will continue to work with Gephardt, Dingell, and the Blue Dogs to see if compromise language can be developed. The Democrats are currently scheduled to introduce their bill as early as Wednesday.

7. Health -- Patients Bill of Rights II: Larry Stein and Chris Jennings had a good meeting on Thursday with Rep. Norwood, the Republican sponsor of patients' rights legislation in the House. Norwood believes there is strong bipartisan support in the House to pass this legislation, and wants to work with us to achieve this goal. We agreed that we should aim to pass a bill by July, and that the House would have to act first to put pressure on the Senate. Norwood said he would continue to support a strong enforcement scheme for patient protections, in part because he thinks such a scheme is necessary to maintain the backing of the AMA and consumer groups. He also indicated that he and his Republican colleagues would oppose any provisions mandating insurance plans to provide certain benefits.

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8. Health -- Children's Health Implementation: HHS will announce the approval of Ohio's and California's children's health program next week. Because of the size and strength of these programs, we may want to highlight their approval at the White House, possibly with the Vice President participating in your absence. Also within the next ten days, HHS will make a decision on whether to approve New York's children's health proposal. New York's application has a controversial provision involving provider taxes that may lead HHS to disapprove it. The plan also takes insufficient steps to ensure that federal dollars not substitute for health insurance currently covered by the private sector.

9. Health -- Assisted Suicide Law: We met this week with representatives of the Catholic Health Association (CHA) to discuss the Justice Department's likely ruling that doctors in Oregon who assist their terminally ill patients to commit suicide, in conformance with state law recently enacted through referendum, do not violate the federal Controlled Substances Act

Among the selectees were Baltimore, Chicago, Dallas, Kansas City, Los Angeles, St. Paul, Salt Lake City, Seattle, and Trenton. The program was very popular, with over 231 communities submitting applications, and we are exploring the possibility of funding a second round in the future.

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THE WHITE HOUSE
WASHINGTON

March 13, 1998

3-16-98

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

✓ 1. **Tobacco -- Senate Commerce Committee Activity:** As you know, Senator McCain is leading an effort, blessed by Senator Lott, to report a comprehensive tobacco bill out of the Commerce Committee. McCain plans to begin marking up a bill on March 25th. His staff spent last week in discussions with staff for Senator Hollings; they plan to start meeting next week with staff for Senators Gorton, Breaux, and Wyden. McCain has asked us to participate in the meetings of this bipartisan staff-level group, and we have agreed to do so. He has told us that he wants to understand our views so that he can produce a bill we can support -- or at least, that we will not sharply criticize. Many Senate Democrats are fearful that we and/or Committee Democrats will cut a deal with McCain, depriving them of the opportunity to have a floor fight on the issue. Our recommended approach to these discussions is to set a high bar consistent with your oft-expressed principles on tobacco legislation. If, as we expect, McCain meets some but not all of our demands (on matters such as price, penalties, and FDA jurisdiction), we should praise the progress he has made, but explain what Congress must do to improve the bill further. On the off chance, however, that McCain gives us all that we ask for, we should support the bill. Erskine, Larry, and Bruce will meet with McCain again on Monday.

✓ 2. **Tobacco -- Chafee-Harkin Legislation:** The public health community responded very favorably to the Chafee-Harkin bill, notwithstanding its annual caps on legal liability. Even Drs. Koop and Kessler, who have expressed the strongest views against granting legal protections to the tobacco companies, wrote a letter congratulating the senators "for crafting a very strong comprehensive package of tobacco reforms" and calling the proposal "tough medicine for a tough problem" and "a major step forward." The bill, however, may not gain much support from Members of Congress. Senator Lott has made clear to Republicans that his preferred vehicle is the McCain bill and that they should not sign on to Chafee-Harkin. Senator Daschle similarly has indicated his strong desire that Democrats unite around the Conrad legislation.

3. **Tobacco -- Funding for Counteradvertising Campaigns:** You recently asked how much money the various tobacco bills spend on counteradvertising. The original June 20th settlement proposed to spend \$500 million each year. The Jeffords and Kennedy bills match that figure; the Conrad bill provides \$700 million; and Chafee-Harkin proposes \$750 million. Our budget does not specifically allocate money for counteradvertising, instead including these funds

(think we'd need to make a commitment to allow)

in a broad "other uses" category (also including money for farmers, states, and legal judgments) totaling \$22 billion over the five-year budget window.

4. Health -- Medicare Buy-in Event: You are scheduled to join the Democratic sponsors of your Medicare buy-in proposal on Tuesday for the unveiling of their legislation. The recent, very positive CBO analysis of this proposal has increased support for it among Members and others. The Kaiser Foundation is planning to release a report next week that underscores the difficulty many older Americans have in gaining access to health insurance. Kaiser has agreed to let us discuss some of its key findings in our announcement. Senator Moynihan, the lead sponsor of this legislation in the Senate, will figure prominently in the event next week. So too will the three Democratic members of the Medicare Commission who are co-sponsors of the legislation (Sen. Rockefeller and Reps. Dingell and McDermott). We are still holding out some hope that Senator Kerrey will endorse the bill, but Senator Breaux will not do so.

5. Health -- Missouri Children's Health Proposal: HCFA met last week with Governor Carnahan's staff to discuss Missouri's children's health insurance proposal. As you know, Missouri previously insisted on financing its program through provider taxes that HHS believes to be illegal. The State now has offered a new proposal that HCFA may be able to accept. HCFA has asked the State to provide additional information, and negotiations remain very delicate. We are hopeful, however, that we have turned a corner in dealing with this problem.

6. Health/Crime -- Assisted Suicide: The Department of Justice soon will decide whether doctors in Oregon who assist their terminally ill patients to commit suicide, in conformance with state law recently enacted through referendum, violate the federal Controlled Substances Act (CSA). In response to a letter from Sen. Hatch and Rep. Hyde, the DEA Administrator informed Congress in November that the CSA authorizes him to bring actions against doctors who engage in this activity. We understand, however, that the Attorney General probably will reverse this legal determination and find that the federal government does not have authority under the CSA to take adverse action against a physician for assisting a suicide. If she does so, Hatch and Hyde are likely to offer legislation amending the CSA to make physician-assisted suicide a federal crime, punishable by the revocation of professional licenses or even more severe penalties.

We should consider carefully our approach to this issue, including what the Attorney General should tell Hatch and Hyde about the Administration's receptivity to such legislation. Although you historically have opposed physician-assisted suicide, you have not indicated (at least as far as we know) that it should be made a federal crime. Many medical groups argue that highly-publicized federal legislation on this issue will inhibit physicians from the appropriate use of painkillers for the terminally ill. Indeed, even the Catholic Health Association (CHA), which strongly opposes physician-assisted suicide, has concerns about a new statute for this reason. We are meeting with CHA officials this coming week to discuss the issue. For the moment we urge some caution in addressing this kind of legislation.

7. Education -- TIMSS Roundtable: You will meet on Monday with leaders of the education, science, and business communities and other public officials to discuss ways of improving math and science education in the wake of the recently announced TIMSS results. The roundtable will take place at Springbrook High School in Silver Spring, Maryland, and participants will include Govs. Glendening and Underwood, Mayors Daley, Riordan and Lee Clancey (Cedar Rapids IA), Sandy Feldman and Bob Chase, Bill Nye "the Science Guy" from the PBS show, Diane Ravitch, and New York City schools chancellor Rudy Crew. Secretary Riley and Secretary Pena also will participate. You can use this event to highlight your overall K-12 education agenda, including national standards and tests, smaller class size, the elimination of social promotions, school modernization, and mentors and reading tutors. You also can use the event to urge others to do their part -- to challenge, for example, students to take more rigorous academic courses, businesses to emphasize and reward academic achievement, and states to require new teachers to pass tough tests of subject matter competency.

8. Education -- Single-Sex Schools: As you recall, the ACLU filed a complaint last year with the Education Department's Office of Civil Rights, charging that New York City's Young Women's Leadership Academy, an all-girls public high school in East Harlem, violates federal civil rights law. Staff from the Education Department and the New York City Chancellor's office will meet next week in a continuing attempt to develop the soundest legal basis -- probably a remedial justification -- for keeping the school open. We and the Counsel's Office have urged the Education Department to bring this matter to a successful conclusion as soon as possible. As you know, Chancellor Crew feels passionately about this school, and he could discuss it with you when he attends the TIMSS meeting on Monday.

Complicating the situation somewhat, the American Association of University Women (AAUW) released a report last week finding no evidence that single-sex education is better for girls than coeducation. The AAUW urged school districts to focus on raising standards and reducing class size, rather than creating separate schools, to improve educational opportunities for young women. Secretary Riley issued a statement agreeing with the report's emphasis on standards and class size, but also restating the Administration's commitment to maximizing choice within the public school system wherever consistent with the law.

9. Education/Crime -- School Safety: The Department of Education and the National Center on Education Statistics will be ready to release a survey on school safety next week; if your schedule allows, you could announce the results on Thursday morning. The survey finds that:

- Fifty seven percent of public schools experienced at least one crime incident that was reported to law enforcement officials in the 1996-97 school year; 37 percent experienced one to five of these incidents, and 20 percent experienced six or more.

- Ten percent of schools experienced at least one serious violent crime during that year (i.e., murder, rape, other sexual battery, suicide, physical attack or fight with a weapon, or robbery).
- Overall incidents of crime and violence include: 190,000 physical attacks or fights without a weapon; 116,000 thefts or larceny; 98,000 incidents of vandalism; 11,000 physical attacks or fights in which a weapon was used; 7,000 robberies; and 4,000 rapes or other forms of sexual battery.
- Middle and high schools were more likely to experience an incident of crime and violence than elementary schools (74 and 77 percent, as opposed to 45 percent, for all violent incidents; 19 and 21 percent, as opposed to 4 percent, for serious violent crimes). Differences in robbery rates were not significant.

10. Welfare -- Transportation Funding: The ISTEA bill passed by the Senate includes an amendment offered by Senators Specter, Santorum, and Moseley-Braun that authorizes \$150 million each year -- \$50 million more than we requested -- for welfare-to-work transportation services. Like our proposal, this provision would provide competitive grants to communities to design innovative transportation solutions for low-income individuals, including those moving from welfare to work. The Senate amendment authorizes another \$100 million each year for grants to help transport any workers, regardless of income, from the cities to the suburbs. We expect that the final ISTEA bill will include these authorization levels. House appropriators, however, have expressed doubts about whether any additional monies are needed for welfare-to-work transportation services; we will have to mobilize both welfare and transportation groups to support our request for this funding.

11. Children and Families -- Intimate Violence Study: The Department of Justice will release a study on Monday showing a marked decline in violence by intimates (current and former spouses, boyfriends, and girlfriends) during your first term in office. The number of female victims of non-lethal intimate violence declined from 1.1 million in 1993 to 840,000 in 1996 -- a 23 percent decline. The number of victims of lethal intimate violence declined from 2,300 to 1,800 -- a 22 percent decline -- in the same years. The report notes that slightly more than half of female victims of intimate violence live in households with children under the age of twelve. Although the report does not address the causes of this decline, many experts believe it is at least partly attributable to the enactment of the Violence Against Women Act and increased federal funding for the prevention and prosecution of domestic violence. The First Lady will highlight the report in her speech at a child abuse center in Texas on Monday.



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DPC weekly report

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THE WHITE HOUSE
WASHINGTON

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March 6, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Health -- CBO Analysis of Medicare Buy-In: The Congressional Budget Office (CBO) released on Thursday a very positive analysis of your Medicare buy-in proposal. CBO confirmed our view that the proposal will have no notable impact on the Medicare Trust Fund. Even more strikingly, CBO projected both greater participation and lower costs than the Administration had estimated. According to CBO, your proposal will provide coverage for 410,000 people, rather than the 300,000 we had claimed. Also according to CBO, beneficiaries will have to pay only \$10 extra per month after they turn 65 to cover the costs of the buy-in, rather than the \$16 we had estimated. We are hopeful that these estimates will give a needed shot in the arm to your buy-in proposal, which Senator Moynihan will introduce as legislation sometime in March.

2. Health -- AMA Speech on Quality: You are scheduled to give a speech on Monday to the American Medical Association (AMA) highlighting our shared commitment to enhancing health care quality. (The speech will also note our shared goal of reducing tobacco use.) The speech -- which will lead off a week in which your Quality Commission will issue its final report and the Democratic leadership will introduce its quality bill (see below) -- will mark the first time you have addressed the AMA and the first time any President has spoken to the AMA since Ronald Reagan in 1983. You will release a new survey prepared by the DPC that documents how many states have enacted the consumer protections recommended by your Quality Commission. The survey will show that more than 43 states -- including 25 with Republican Governors -- have enacted one or more of the recommendations. As you know, the AMA supports strong federal legislation in this area, including a provision to ensure judicial enforcement which the business community vehemently opposes. This enforcement provision is contained in both the Norwood bill and the Democratic leadership bill. The Administration has yet to take a position on it, primarily because the resulting business opposition might cripple the effort to enact any quality legislation.

3. Health -- Democratic Patients' Bill of Rights Bill: The Democratic leadership is scheduled to unveil a patients' protection bill on Thursday. This legislative proposal will receive broad-based support among Democrats in the House and less diverse support in the Senate. The bill includes controversial enforcement provisions (see above), as well as new requirements that health plans cover all clinical trials and all services associated with mastectomies, including

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breast reconstructive surgery. The business community will argue that these provisions will lead to increased litigation, higher premiums, and more uninsured Americans. As you know, we believe that you should support this legislation without embracing it as your own. The bill stands little chance of passing, and too strong a signal of support may sharpen the business community's opposition to quality legislation and alienate important Republican members -- such as Reps. Hastert, Thomas, Bilirakis, and Bliley -- who have indicated a desire to work with us on this issue.

4. Health -- Final Quality Commission Report: Your Quality Commission is scheduled to release its last report later this week. This report will focus not on patients' rights, but on the development and use of health care standards. Although this subject has not received as much attention as the patients' bill of rights, many health policy experts believe that this aspect of the Commission's work may have even greater potential to improve the health care system. Numerous quality problems now plague the health care system, including avoidable errors, variation in services, and overutilization of services. Each year, for example, 80,000 American women undergo unnecessary hysterectomies and more than one million Americans suffer harm as a result of avoidable errors. The Commission will propose the formation of a Quality Council to develop goals and strategies to improve health care quality. The Commission also will propose the establishment of a Quality Forum, comprised of private and public sector purchasers, that will develop a consistent set of health quality measures, to facilitate meaningful comparisons among plans and providers.

Can't receive it - no wait?

5. Health -- Kyl Private Contracting Issue: The Senate Finance Committee held a hearing last week on Senator Kyl's proposal to make it easier for doctors to enter into private contracts with Medicare eligible individuals. As you know, we have objected to this proposal on the grounds that it would reduce the access of non-wealthy Medicare beneficiaries to the best doctors -- or in some areas, to any doctors at all -- and create significant opportunities for fraud. All of the witnesses at last week's hearing, with the exception of Senator Kyl and a right-wing aging group called United Seniors, echoed these criticisms. Most policy and political analysts -- including the AMA, which is one of the Kyl amendment's most ardent supporters -- believe that this legislation is dead at least for this Congress.

6. Education -- Meeting on TIMSS Results: You are currently scheduled to meet on March 16 with a group of business, education, and math and science leaders to discuss how the nation should improve math and science education in the wake of the recent TIMSS results. Among those planning to attend are: Mayor Daley, Rudy Crew, Diane Ravitch, Sandy Feldman, Bob Chase, Ed Rust (the CEO of State Farm, who chairs both the National Alliance of Businesses and the Business Roundtable's Education Task Force), Bill Schmidt (the director of the TIMSS study), and Bruce Alberts (the President of the National Academy of Sciences). This meeting will provide an opportunity to demonstrate the need for standards-based school reforms and to highlight your own education agenda. It is especially important because some in the education community responded to the TIMSS results by dismissing the significance of low test scores.

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✓ **7. Education -- Opportunity Zones:** Rep. Clay, the ranking minority member on the House Education and Economic Opportunities Committee, has agreed to introduce your Education Opportunity Zones legislation in the House, and to try to recruit bipartisan sponsors. DPC and Education staff are working with Clay to finalize the legislation. We expect to have it ready for transmittal to Congress within the next few weeks.

OK

✓ **8. Child Care -- Speech and Directive:** You are currently scheduled to go to Connecticut on Tuesday to give a speech on your child care proposal. You can announce a directive on that day to ensure that all federal child care centers (except those run by Congress or the judiciary) become accredited by the year 2000, and that all do proper background checks of child care workers. You also can announce a new HHS report showing that states are using Child Care and Development Block Grant funds wisely, but that they have far too little money to reach the entire population of eligible children. On the same day, the Children's Defense Fund will issue a report showing the need for increased investment in child care programs.

Good

✓ **9. Child Support -- Penalties Legislation:** The House passed 414-1 last week a bill introduced by Rep. Shaw to set realistic penalties for states' failure to put in place statewide computer systems to track parents who owe child support. The legislation, which we helped Shaw to develop, sets penalties at 4 percent of federal child support funds in the first year of noncompliance, going up to a high of 20 percent in the fifth year and thereafter. The legislation further provides for a state to get a rebate of a portion of the penalties once HHS certifies its computer system. Prospects for Senate passage of the legislation are extremely high.

*yes
Shaw*

✓ **10. Crime -- Modified Assault Rifles:** The Treasury Department is almost ready to report back to you on whether it can permanently halt the importation of modified assault rifles under the Gun Control Act of 1968 for failure to comply with the "sporting purposes" test. (As you recall, you directed Secretary Rubin in November to suspend temporarily the importation of these weapons, while the Treasury Department conducted its review.) Treasury has studied the features and uses of the 5 basic kinds of modified assault rifles, and is now considering whether to recommend halting the importation of all five or only two (AK-47s and Uzis). We are carefully reviewing the evidence and legal arguments, so that we can determine whether a broader or narrower ban is appropriate. Treasury may be ready to make its recommendation in time for next week's radio address.

✓ **11. Crime -- COPS Grants:** The COPS Office awarded \$31 million on Thursday to 186 law enforcement agencies in small towns across the country. The grants will fund 467 full-time and 67 part-time officers.

✓ **12. Drugs -- NIJ Study on Drug Use:** The Justice Department's National Institute of Justice released a study this week on drug use and purchase patterns among individuals arrested for crack, powder cocaine, and heroin offenses in six cities. The report found that heroin users were the most likely to be daily users (a substantial majority in all cities), followed by crack users (40 to 50 percent), and cocaine users (10 to 40 percent). In addition, a greater percentage

of crack users than of heroin or powder cocaine users lived on the streets or in shelters prior to their arrest.

✓ **13. Campaign Finance Reform -- Free TV Petition:** With the defeat of McCain-Feingold, we are now focusing on your petition to the Federal Communications Commission (FCC) to establish a system of free or discounted broadcast time for candidates for federal office. The FCC has received letters of support for this petition from 83 Members of Congress, including a few notable Republicans such as Sen. Roth and Rep. Shays. Sen. McCain, however, has expressed strong opposition to such FCC action, and he intends to offer an amendment to the supplemental appropriations/IMF bill, as early as next week, to prohibit the FCC from imposing a free-time regime. In addition, all the Republicans on the House Commerce Committee have written the FCC in opposition to your request that the FCC begin a rulemaking procedure. David Broder intends to write a column tomorrow supporting our petition, and we are trying to round up additional editorial support.

14. **Race -- EEOC Budget Request:** Newt Gingrich testified at an EEOC oversight hearing on Thursday that he would support your proposed increase in funding for the EEOC on the condition that the EEOC not use any FY99 funds on testing programs to uncover employment discrimination. Acting Chair Paul Igasaki responded at the hearing that although the EEOC is currently conducting a pilot program on the use of testing in the employment context, its FY99 budget request does not include any money for testers. This exchange would seem to commit Gingrich to supporting our EEOC budget request, but his testimony also contained criticism of class actions and he could try to link an increase in EEOC funding to restrictions on this litigation device. In addition, Gingrich's criticism of testing programs bodes ill for our proposal that HUD significantly expand its use of testing to uncover housing discrimination.

15. Tobacco: We are sending you a separate memo today on communications and legislative strategy on tobacco.

THE WHITE HOUSE
WASHINGTON

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February 20, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

1. Tobacco -- New Tobacco Ad Campaign and Announcement on Synar Goals:

Next Saturday, February 28, is the one-year anniversary of the effective date for two key provisions in the FDA rule. Those provisions prohibit retailers from selling tobacco products to anyone under 18 and require retailers to check the photo identification of anyone under 27 years old. We are preparing an event for you and the Vice President to mark the anniversary by announcing a new FDA ad campaign to call attention to these access restrictions. In addition, HHS will release a report showing that all 50 states are in compliance with the Synar amendment (enforcing age restrictions on tobacco purchases), and listing the target date that each state is expected to achieve its Synar goal. The report also presents state by state information on the rate of sales to youth of tobacco products. We believe this is a good opportunity to highlight your success in moving the country forward in the fight to protect children and to repeat your challenge to Congress to enact comprehensive tobacco legislation.

2. Child Care -- Stay at Home Parents: We are working with NEC and Treasury to prepare policy options on proposals to help "stay-at-home parents" in case we need to negotiate a proposal as part of a final child care package. Senators Chafee and Dodd have both included proposals in their child care bills to offer tax credits to parents who choose to stay at home with their young children. Last week, the House unanimously passed a resolution introduced by Congressman Goodling noting that any child care initiative passed by the Congress must not ignore stay-at-home parents (although Democrats complained that they were not given the opportunity to amend the resolution to include support for child care for working families as well). In deference to Treasury's concern that the administration maintain its leverage by not looking too eager to accept a compromise, our current position is that we welcome Republicans' interest in passing child care legislation and are still evaluating their stay-at-home proposal.

3. EEOC -- Federal Sector Rule. On Friday, February 20th, the EEOC published a Notice of Proposed Rulemaking which seeks public comment on a number of proposed changes to the federal sector complaint process. Most notably, the proposed rule would end the current practice of allowing federal agencies accused of discrimination to overrule final decisions of

EEOC administrative judges. In addition, the proposed rule would expand the use of ADR mechanisms, provide for the dismissal of complaints where there is a clear pattern of abuse of the complaint process, and expand the use of class actions to more effectively combat systemic discrimination practices in federal employment. These proposed changes would increase the perception of fairness in the process and would increase efficiency by eliminating unnecessary layers of review, dealing more expeditiously with meritless claims and delegating more authority to front-line employees.

4. Campaign Finance Reform --McCain Feingold: Next week we expect the McCain-Feingold reform legislation to come up for consideration. After the vote on McCain-Feingold, we expect Lott to bring up Sen. Nickles's controversial Paycheck Protection Act, which would require unions to get prior consent before using dues for political purposes and is strongly opposed by Democrats who believe it could cripple labor. Sen. Snowe -- along with Sens. Jeffords and Chafee -- has been trying to make aspects of each bill more palatable to Senators on both sides of the aisle. Snowe's compromise, derived from a proposal crafted by Norm Ornstein and Thomas Mann -- would restrict both unions and corporations from airing certain types of advertising within 60 days of a primary or general election. It is not clear yet whether Democrats will support the Snowe compromise.

5. Campaign Finance Reform -- Petitions: Two weeks ago, the Federal Communications Commission (FCC) received your letter to establish a system of free and discounted TV time. Last week the Federal Elections Commission (FEC), in response to your petition to ban "soft money," asked the FEC General Counsel to provide the commission with additional options on restricting "soft money" contributions. If bipartisan campaign finance reform legislation is filibustered next week, we will focus attention on your pending petitions before the FCC and FEC. In addition, we should consider submitting other petitions, including one to the Securities Exchange Commission (SEC) on disclosure of contributions.

6. Welfare Reform -- Update on Fatherhood Initiatives by Governors and Congress: There is growing interest among governors regarding how states can use their TANF funds to promote positive fatherhood involvement. Govs. Ridge and Carper recently launched a bipartisan national effort to promote responsible fatherhood. They will host a national fatherhood summit in June, bringing together elected officials and leaders from the civic, philanthropic, education and entertainment communities. There are also indications of interest by House Republicans on this issue. Late last month, Rep. Archer called for \$1 billion "Fatherhood Counts" block grant, paid for by capping attorneys' fees in tobacco legislation. We are working with the Vice President on possible new administration initiatives on fatherhood.

7. Welfare Reform -- Welfare to Work Transportation: As you asked us to do after the State of the Union, we have sent a letter from you to all the governors urging them to use existing welfare funds for welfare to work transportation. The letter highlights Elaine Kinslow's success story, describes your proposal for \$100 million in new welfare to work transportation funds, and urges states to make full use of existing welfare funds to provide transportation

services. To help states do so, HHS, DOL and DOT will provide more detailed guidance shortly. The letter will also be sent to state legislative leaders and local elected officials.

8. Welfare Reform--Separate State Programs: New financial data from the states show that 16 states have created separate state programs. Under TANF, state expenditures in certain separate state programs may count toward a state's TANF Maintenance of Effort (MOE) requirement, even though individuals served in these separate state programs don't have to follow the TANF work and time limit rules. Information from the 16 states show that total state spending on separate state programs ranges from 1% in Indiana to 52% in Hawaii. Eight states report spending more than 10% in a separate state program: Hawaii, Illinois, Colorado, Iowa, Alabama, Wyoming, Massachusetts, and Arizona. Six of these eight states spent most or all of their funds on child care (child care funds spent in this way would not be time limited). Hawaii created a separate state program for two-parent households and legal immigrants (Florida, Michigan and Tennessee have similar programs amounting to less than 10%). Colorado's separate state program is for child welfare services.

8. Education -- NGA Meeting: On Monday, you will announce to NGA (1) a directive to the Education Department to develop guidelines for educators and policymakers on how to end social promotion; (2) John Engler's appointment to NAGB; (3) a legislative proposal to extend Ed-Flex from the current 12-state pilot program to one open to any state which sets high standards and holds schools accountable for results by issuing school-by-school report cards and intervening in failing schools; and (4) findings from a recent Education Department analysis of recent state class size reduction initiatives.

9. Education -- TIMSS Results: As we reported last week, on Tuesday the Education Department and the National Science Foundation will release the results of the TIMSS 12th grade study, in which U.S. students performed among the worst in the world. We believe the poor performance in 12th grade is due to a number of factors, including; (1) a weak foundation for learning advanced math and science, especially in math among 8th graders; (2) an unchallenging curriculum which continues to emphasis superficial mastery of facts rather than an in-depth understanding of subject matter; and (3) weak teaching due to inadequate content expertise among significant number of high school math and science teachers, as well as poor classroom teaching even by teachers with strong substantive preparation. The Education Department has also conducted a preliminary analysis of 12th grade data from the Chicago-area First in the World Consortium, which performed among the top countries in general knowledge of math and science. While this is partly because these are affluent communities, it also appears that they have a more rigorous curriculum and better teaching than the rest of the country. If this finding holds up, it will provide additional support for your arguments for higher standards, a more challenging curriculum and better teachers.

X

emergency room care -- to come into compliance with the Bill of Rights. Similarly, HCFA is sending a letter to all state Medicaid programs clarifying that the law requires them to cover emergency room services whenever the need arises. You can use this announcement to show that the Administration is leading the way in the effort to ensure quality health care, and to urge Congress once again to enact legislation to provide these rights to all Americans.

4. Health/Race -- Racial Disparities in Health Care: Next week's radio address is currently scheduled to focus on the FY99 budget's new initiative to address racial disparities in health care. As you know, African-Americans, Hispanics, Native Americans, and Asian Americans suffer from certain diseases up to five times as frequently as whites. To use just one example, infant mortality rates are 2 1/2 times higher for African-Americans and 1 1/2 times higher for American Indians and many Hispanic groups than they are for whites. Dr. Satcher intends to make this issue one of his highest priorities, and we are considering a proposal that he participate with you in the radio address. You can announce the Administration's commitment to eliminate racial disparities in health care by the year 2010, and detail the public health measures proposed in the budget -- totaling more than \$400 million over the next five years -- to advance this effort. This funding will allow communities to test innovative and promising new ways to improve health care for minorities, as well as enable established public health programs to turn their attention to this issue. You also can challenge foundations, health care providers, and corporations to focus on this problem.

5. Drugs -- Prison Drug Treatment Report: The Justice Department is releasing today the results of a study, involving 1,866 inmates at 30 institutions, that confirms the benefits of drug testing and treatment for prisoners. The study, which was announced in your radio address, found that federal inmates who participated in the Bureau of Prisons (BOP) residential drug abuse treatment program during their incarceration were 73 percent less likely to be re-arrested and 44 percent less likely to test positive for drugs in the first 6 months after release than similar inmates who did not participate. In compliance with the 1994 Crime Law, the BOP provides drug treatment to 100 percent of eligible inmates prior to their release from custody. In FY 97, nearly 31,000 inmates participated in Bureau treatment programs, with about 6,000 (at 42 different institutions) participating in the especially intensive residential program that is the subject of this study. Your FY99 budget proposal would give \$72 million to states to establish similar residential drug treatment programs for inmates. It also would provide \$85 million to state and local governments to implement the comprehensive drug testing and intervention plans that are now a condition of receiving federal prison money.

6. Crime -- COPS Program: The COPS Office last week awarded \$64 million in grants to 311 law enforcement agencies across the country to hire nearly 1,000 officers. Two of the larger grantees were the Nashville and Tampa Police Departments, which each received funding for 40 full-time officers.

7. Tobacco -- International Control Efforts: At our urging, the State Department will issue guidance to U.S. diplomatic posts early this week on tobacco trade and control in foreign

countries. The guidance encourages posts to assist tobacco-control efforts in host countries; prohibits posts from challenging foreign tobacco-control laws, as long as the laws are applied in a non-discriminatory manner; and prohibits posts from promoting the sale or export of tobacco products, or assisting U.S. firms or individuals to do so. The guidance implements a recent appropriations rider sponsored by Rep. Doggett and ensures that all diplomatic posts will act consistently with the Administration's overall tobacco-control policy. We will inform *The New York Times* or other newspaper of the guidance just prior to its issuance by the State Department.

✓ **8. Welfare -- Illegitimacy and Work Bonuses:** HHS will issue proposed regulations this week on giving bonuses to states for (1) reducing illegitimacy and (2) promoting work. We described the work bonus to you last week; briefly, HHS will give \$200 million annually to the states that do most to place welfare recipients in jobs and help them succeed in the workplace. The illegitimacy bonus, totaling \$100 million annually, will go to the five states with the largest decline in the percentage of children born out of wedlock -- if those states also can show a decline in their abortion rates since 1995. As you know, about 33 percent of all children -- and 75 percent of children with teen mothers -- are now born out of wedlock. We will release information on the two bonuses (highlighting the work bonus) to *The Washington Post* for a story early this week.

✓ **9. Welfare -- Michigan Privatization Lawsuit:** Michigan has sued the Department of Labor for withholding Wagner-Peyser funds in response to the state's decision to privatize employment service operations. Michigan submitted a privatization proposal to DOL late last year. When Secretary Herman indicated that she would disapprove the plan, Governor Engler withdrew it and announced that he would proceed without federal approval. DOL responded by withholding funds for employment services, and Michigan then brought suit. The court last week denied Michigan's request for a temporary restraining order and a preliminary injunction. The court will hear arguments in April on the core issue of whether federal law (in the absence of a waiver) requires states to staff employment services with public employees.

✗ **10. Welfare -- Secretary Herman's Tour:** Secretary Herman just finished a ten-city welfare-to-work tour to explore welfare reform efforts and promote the \$3 billion welfare-to-work program. The tour began in November in Washington, D.C. and ended last week in Los Angeles. Along the way, the Secretary consulted with a range of people, including employers, former and current welfare recipients, and government officials. She will speak at the National Press Club on Tuesday about what she learned and release a booklet called "About Welfare: Myths, Facts, Challenges and Solutions." The booklet emphasizes that families on welfare want to work and face the same challenges as the non-welfare working poor; it also calls for continued action by the public and private sectors to provide better child care, transportation, and training. The Secretary will send you a detailed memo on her tour in a week or two.

11. Education -- Testing Initiative: You will be able to announce the appointment of Governor Engler to the National Assessment Governing Board (NAGB) at the National Governors Association meeting later this month. In addition, NAGB finalized a contract last

week for developing national tests in 4th grade reading and 8th grade math. Under the contract, test questions will be written in 1998 and pilot testing will begin in 1999.

12. Education -- 12th Grade TIMSS Tests: New 12th grade TIMSS scores will come out on February 24. The results are dismal. In both math and science, U.S. 12th graders scored third to last among 21 countries. Even our most advanced students performed at or near the bottom when compared with advanced students in other countries. We think that you should respond to the report by again emphasizing the need for a national eighth grade math test and policies to end social promotions. You also can highlight a \$50 million budget initiative for the National Science Foundation and Department of Education to improve the training of math teachers and the use of math instructional materials and technology. We will provide you with further details next week on a recommended response to the TIMSS numbers.

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Catherine
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13. Immigration -- INS Reform: As you know, we have nearly completed our review of the Commission on Immigration Reform's proposal to restructure the nation's immigration system. Whereas the Commission recommended disbanding the INS entirely, we and OMB are inclined to recommend a fundamental reform of the INS that will separate enforcement and service activities both in the field and at headquarters. We met with Immigration Subcommittee staff for Senators Abraham and Kennedy last week to discuss our tentative conclusions. They were very positive about our approach, agreeing that immigration activities should remain within a single agency, but with much greater separation of enforcement and service functions. They -- and we -- are worried, however, that some members of the relevant House and Senate appropriations committees want to pursue the Commission's idea of dispersing immigration functions throughout the federal government. We are meeting with key staff on the appropriations committees next week, and will make a final recommendation to you on restructuring the immigration system following that set of meetings.

14. Immigration -- H1B Visas: We are currently leading an interagency process to consider a proposal to expand the number of H1B visas -- temporary work visas that allow "highly skilled" immigrants (with a BA or equivalent) to work in this country for up to six years. Under current law, the number of H1B visas is capped at 65,000 per year. This cap was reached for the first time last year, and it probably will be reached this year by April. The information technology industry, along with some members of Congress (including Senator Abraham and Rep. Lofgren), strongly support removing the H1B cap entirely or significantly increasing the annual allotment. Labor unions, along with other members (including Senator Kennedy and Rep. Dingell), would likely oppose any increase in the cap. We hope to find a way to reconcile the concerns of the high-tech industry and the interests of American workers.

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15. Cloning -- Congressional Activity: As you know, 12 Republican Senators joined all 42 voting Democratic Senators last week to block cloture on an overbroad cloning bill sponsored by Senators Bond and Frist. Some Senators voted to block cloture solely on procedural grounds, because there was no committee review of the bill. A significant number,

however, understood that the bill would have interfered with valuable medical research aimed at preventing and treating diseases like diabetes and cancer. At a hearing held by the House Commerce Committee the following day, a number of Republicans again joined Democrats in criticizing the Bond/Frist approach for interfering with important medical research. These Republican members may force the House and Senate leadership to back a narrower bill. The leadership, however, is under great pressure from the pro-life wing of the party to retain -- or even expand on -- the Bond/Frist approach, so as to impose further restrictions on embryo research. We are continuing to support the Kennedy-Feinstein cloning bill (which is nearly identical to our own proposal), while working with HHS and OSTP to devise possible compromise proposals.

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THE WHITE HOUSE
WASHINGTON

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February 28, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Safety -- Drunk Driving Event: You are currently scheduled to do a Rose Garden event on Tuesday to highlight the need for a nationwide standard for drinking and driving. You will urge Congress to enact an amendment to ISTEA legislation to make .08 blood alcohol content (BAC) the limit for drivers across the nation. The amendment, which will be offered by Sens. Lautenberg and DeWine, gives states three years to adopt .08 BAC limits, on penalty of losing highway construction funds. To date, 15 states already have adopted .08 BAC laws. We are also preparing a directive to the Secretary of Transportation, instructing him to develop a plan to set .08 BAC as the legal limit on federal property, such as national parks and military installations.

2. Tobacco -- Legislative Developments: The Senate is making good progress on tobacco legislation, although the House remains stalled. In the Senate, Sens. Harkin and Chafee are continuing to work on a comprehensive bill and may make an announcement as early as this week. We would like to give immediate and strong support to this bipartisan effort; we will make a recommendation to you as soon as we get fuller information about the bill's contents. Sens. McCain and Hatch are also working together on comprehensive legislation (apparently with the blessing of Sen. Lott) and have started conversations with Sen. Breaux and farm-state Democrats. McCain and Hatch both complimented the Administration last week for the assistance it is providing to Congress on tobacco legislation (see entry #3, below). In the House, Rep. Fazio is getting ready to introduce a version of the Conrad bill -- once again, with only Democrats signing on -- but there is little other activity. Rep. Bliley would like to make a push for comprehensive bipartisan legislation, but the Republican leadership has not yet authorized him to do so; in any event, he and the key Democrats on his committee (Reps. Dingell and Waxman) may remain too far apart on too many issues to make such a bipartisan bill a real possibility.

3. Tobacco -- Letters to Congress: Bruce sent a letter to Sen. McCain on Friday, enclosing responses to 74 questions that the Senator had asked the Administration about tobacco legislation. Most of the questions related to restrictions on advertising designed to reduce youth smoking. In our responses, drafted with extensive input from the Department of Justice and HHS, we explain that the advertising restrictions contained in our FDA rule are consistent with the First Amendment. We go on to explain that the broader advertising restrictions included in

the June 20th settlement, although potentially very valuable in reducing youth smoking, raise significant constitutional concerns if imposed by legislation. Some Members of Congress may use these responses to argue that only a settlement -- and not simply legislation -- can achieve the goal of reducing youth smoking. We will not make this argument ourselves, because we do not want to suggest that we need the consent of the tobacco industry to accomplish something meaningful in this area. To the contrary, we will stress the ability of comprehensive legislation to impose real pain on the industry for continuing to market to minors. But in the long run, this letter may help to create the conditions for a bipartisan agreement on tobacco by providing a rationale for giving certain legal protections to the industry (without which many Republicans and farm-state Democrats will resist legislation).

In a separate letter sent last week, responding to questions from Sen. DeWine, the Department of Justice expressed skepticism about the need to include antitrust exemptions for tobacco manufacturers in comprehensive legislation. The Department particularly criticized proposals to provide exemptions for price-fixing or for dealings with distributors and retailers. It did, however, leave open the possibility of a narrowly drawn exemption for agreements on advertising to minors.

4. Tobacco -- Fourth Circuit Decision: Judge Russell -- one of the three Fourth Circuit judges who heard argument in the lawsuit challenging the FDA's rule -- died last week (at the age of 92). Judge Russell was very hostile to the FDA's argument during oral argument. If the other two judges are split, they will have to set the case for reargument. If they are in agreement, they could still issue a decision.

5. Health -- Medicare Commission Meeting: You are currently scheduled to meet with the Medicare Commission on Thursday, the day before its first official session. We do not expect the Commission to take any important action at its first session: the members probably will try to set a long-term agenda and then focus on questions of process and procedure. The Commission's kick-off may nonetheless attract significant media attention, and your meeting with the members offers a good opportunity to demonstrate your commitment to solving the long-term financing challenges facing the Medicare program. We recommend that you urge the members to work in a bipartisan spirit, and that you relate their effort to the activities you are undertaking to develop consensus on needed Social Security reforms. We also are considering whether you should announce some general principles on Medicare reform to guide the Commission's work in the future.

6. Health -- Patients' Bill of Rights Legislation: The Democratic Leadership is expected to unveil its version of the patients' bill of rights in about a week. The legislation will go beyond your Quality Commission's recommendation by providing for judicial enforcement of the bill of rights and requiring health plans to cover all clinical trials, breast reconstructive surgery, and other services associated with mastectomies. (Sen. D'Amato is expected to offer an amendment on the Senate floor in the next few weeks that will impose similar new benefits requirements on health plans, including services associated with mastectomies and second

opinions for cancer patients.) Both the benefits requirements and -- perhaps even more -- the enforcement provisions are very controversial, especially with the business community. Opponents will argue that these measures will lead to increased litigation, higher premiums, and more uninsured Americans. These claims are overblown, but they will have great effect in Congress. Because the Democratic Leadership version of the Bill of Rights stands little or no chance of passing, our challenge is to indicate support for the legislation without undermining our ability to back an eventual more moderate proposal. We are meeting with the Democratic Leadership this week to construct a communications and legislative strategy.

7. Welfare Reform -- Exempting Workfare from FICA Taxes: The IRS and the Department of Treasury's Tax Policy Division have prepared a draft notice stating that workfare positions are not subject to FICA taxes. As you recall, Democratic and Republican Governors alike have long sought this result, and you have indicated support for legislation to achieve it. The IRS/Treasury draft notice specifically states that it addresses only the status of workfare programs under federal tax law, and not under any employment law (including the minimum wage). The unions nonetheless fear that a court may use the notice to support the argument that workfare is really only a welfare payment -- not employment subject to the minimum wage and other requirements. Disinterested lawyers say that a court could take this approach, but that the notice is drafted to minimize the risk as far as possible. IRS and Treasury officials are currently considering whether to publish the notice.

8. Welfare -- Fatherhood Initiatives: Rep. Shaw, joined by Chairman Archer and other Republican members of the Ways and Means Committee, introduced a new \$2 billion block grant proposal on Thursday to enhance fatherhood and parental responsibility. Shaw described the initiative as the next step in welfare reform and as a way "to help children by providing them with more than a working mother-and sporadic child support." Under the initiative, states would award funds to community-based projects that encourage marriage and better parenting by fathers and help fathers to obtain employment or get better jobs. Although the bill is good politics, there is little reason to think that such an open-ended block grant will produce results. We are exploring alternative ideas in case Congress decides to take up "fatherhood" as an issue, including providing workfare slots for unemployed delinquent fathers and insisting that they work off their back child support.

9. Education -- Feinstein Ballot Initiative: You recently asked us whether you should support a California ballot initiative that Sen. Feinstein has proposed, called the "Excellence and Accountability in Education Act of 1998." The initiative contains many elements that reflect or complement your own agenda: requiring grade-by-grade education standards; ending social promotions and providing mandatory summer school for students who do not meet standards; expanding California's existing class-size reduction program; lengthening the school year; and improving teacher quality through such steps as providing incentives to recruit well-trained new teachers, raising teacher certification requirements, and rewarding outstanding teachers. But the proposed funding mechanism -- a \$1 per pack state tobacco tax -- makes it difficult for you to endorse the Feinstein initiative at this time. Your support for such a significant state tobacco tax

increase, over and above the new federal tobacco revenues contemplated in your budget, would only further complicate the effort to pass comprehensive tobacco legislation during this Congress.

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THE WHITE HOUSE
WASHINGTON

January 31, 1998

2-2-99

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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1. **Child Care -- Senate Republican Legislation:** The day after the State of the Union, Republican Senators Chafee, Hatch, Snowe, Roberts, Specter, and Collins introduced a child care package that, like yours, significantly increases child care subsidies for poor children, provides additional tax relief to low- and middle-income families paying for child care, creates a tax credit for businesses that provide child care services to their employees, and improves state enforcement of health and safety standards. In addition, the package includes a proposal to adjust the Child Care Tax Credit to provide assistance to stay-at-home parents. Preliminary estimates indicate that the package totals about \$12 billion over five years. Because the bill so substantially overlaps with your proposal, we issued a very positive statement welcoming the bill and urging bipartisan cooperation. The next day, Senator Coats, who chairs the Senate Children and Families Labor Subcommittee, held a news conference with conservative groups to call for targeting all new money to stay-at-home parents. In light of Republican sentiment on this issue, we have asked the Treasury Department, which throughout our policy development process was very hostile to the idea, to develop the best way to modify the Child Care Tax Credit or expand the Child Tax Credit to provide some financial assistance to stay-at-home parents.

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2. **Tobacco -- Legislative Strategy:** We and Larry Stein will give you a memo this week on strategy to enact tobacco legislation. As you may have seen, several Republican Members of Congress (particularly Senator Nickles) made statements this week denouncing liability limits for tobacco companies and proposing to pass targeted legislation addressed to youth smoking, rather than comprehensive legislation based on the June 20th settlement. Of course, the targeted legislation these Members have in mind will not reduce youth smoking, let alone accomplish your other goals; most important, it will not impose the financial burdens on the industry necessary to force a substantial increase in the price of tobacco products. These Members hope that by entering into a marriage of convenience with liberal Democrats regarding liability limits, they can effectively limit the scope of tobacco legislation. Our goal must be to make piecemeal legislation unacceptable, while preventing this strange coalition from taking liability limits off the table (since it will be difficult to pass a substantial price increase without them). Our memo next week will present options for how to accomplish this goal.

3. Tobacco -- Budget Strategy: You recently asked us about a Washington Post editorial that criticized the Administration for linking tobacco legislation to other budget priorities such as child care. For the most part, we have succeeded in persuading the press that allocating projected revenue from proposed legislation is a normal part of the budget process; we could not reasonably have called for large industry payments -- necessary for *public health*, not budget purposes -- without saying something about where those payments ought to go. But we must continue to stress that our focus, in urging Congress to pass tobacco legislation, is to reduce youth smoking (primarily by increasing the price of cigarettes), not to create a new source of revenue for federal spending.

4. Tobacco -- Youth Marketing: You recently asked us how many states prohibited the sale of cigarettes to persons under 18 at the time the newly released R.J. Reynolds documents were written. These 81 documents date from 1973 to 1990, but the most damaging were written in 1974. As of that year, 27 states had passed legislation prohibiting the sale of cigarettes or other tobacco products to those under 18. Starting around 1980, RJR officials stopped referring specifically to youth marketing efforts. In 1987, however, RJR started its Joe Camel advertising campaign. At that time, 35 states had legislation prohibiting the sale of cigarettes or other tobacco products to those under 18. Today, all 50 states and the District of Columbia have laws of this kind.

5. Health -- Children's Health Insurance: HHS must approve Alabama's children's health insurance plan by Monday, which will make Alabama the first state to enter the \$24 billion CHIP program. If we were able to choose which state to approve first, we would not have picked Alabama, because its expansion is very modest. The next two states coming on line -- Colorado and South Carolina -- have excellent programs; when we approve them, in the next week or so, we will be able to put together a great event for you and the First Lady. This event will illustrate the broad bipartisan support in the states for children's health coverage expansions, as well as highlighting the children's health outreach policies in your new budget.

6. Health -- Quality Legislation: We have been working with Larry Stein to develop a strategy for passing health care quality legislation. We will send you a memo this week requesting that you call Rep. Dingell on this issue. (We also think you should talk to Dingell about the Medicare Commission because of how close he is to many of its members.) Dingell is leading the House Democratic Caucus effort to develop health care quality legislation. Many Democrats, including Rep. Gephardt, want to use the quality issue as a political wedge, rather than to pass legislation. It is important that you communicate to Rep. Dingell your desire to pass a bill, and to seek his advice on legislative strategy.

7. Health -- Medicare Commission: Senator Breaux and Rep. Thomas last week selected Bobby Jindal from Louisiana to be the staff director for the Medicare Commission. The 26-year-old Rhodes Scholar currently serves as Louisiana's Department of Health Director and is credited with improving a particularly troubled Medicaid program. Although everyone is impressed with Mr. Jindal's intellect, creativity, and charisma, some Members of Congress (on

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Yes

No

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both sides of the aisle) have expressed concerns about his age, lack of experience with Medicare issues, and/or support for Medical Savings Accounts. Sen. Breaux unfortunately announced his choice before anyone here had the chance to consult with you or the Democratic Leadership. Chris Jennings is setting up a briefing with Mr. Jindal next week, to learn more about him and to try to bring him up to speed on the issues facing the Medicare program. Chris also plans to brief the four members of the Commission whom we appointed.

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Jindal
Waters
Mills

8. Education -- National Test: The House Education and Workforce Committee last week approved, by a 23-16 vote, Rep. Goodling's bill to prohibit developing or implementing national reading or math tests after FY98 without specific statutory authorization. Only one Democrat, Tim Roemer, voted with Goodling; not a single member of the Black or Hispanic Caucuses joined him. We held the caucus members in part because of the many education initiatives in our budget that target resources to their constituents, and in part because of our appeal for party unity in the face of Goodling's clear violation of our appropriations agreement. We expect Goodling's bill to come to the floor as early as next week. We are working closely with Reps. Gephardt, Clay, and Miller to hold the Democrats together once again. Secretary Riley will phone Reps. Martinez, Becerra, and Waters in the next few days, and will speak to the full Democratic Caucus on Wednesday. The Vice President also will try to say a word to Hispanic Caucus members on Monday when he announces our Hispanic Education initiative. Finally, we will issue a very strongly worded veto threat, so that no one is in any doubt about your continuing commitment to move forward with the tests.

Good

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9. Education -- America Reads: In response to the America Reads annual report, you asked us for information on the number of work-study students, non-work-study students, and non-college students participating in the program. The America Reads office unfortunately does not have that information. The Department of Education feared that requiring colleges, universities, and other institutions to report this information would have discouraged their enrollment in the program. Now that so many organizations have signed up, we have asked the Department to revisit this decision.

Don't require it - just ask them - say we'd like to know to be sure right

10. Welfare -- Welfare-to-Work Transportation: After the State of the Union, you asked us to write up the story of Elaine Kinslow and remind states that they can use TANF funds to support projects, of the kind Kinslow is part of, to help transport welfare recipients to their jobs. We have drafted a letter to governors, state legislative leaders, and mayors that (1) describes Elaine Kinslow's story; (2) states that you will fight for \$100 million a year in new welfare-to-work transportation funds as part of ISTEA reauthorization; and (3) notes that states and cities can in some circumstances use TANF and the \$3 billion welfare-to-work funds for transportation, and promises detailed guidance on this subject. We emphasize in the letter that the ISTEA funds are needed despite the partial availability of TANF and welfare-to-work funds. The TANF funds, for example, cannot be used to provide transportation to families once they have left the welfare rolls; similarly, the \$3 billion welfare-to-work funds cannot be used for other than long-term welfare recipients with certain kinds of employment barriers.

Let DOS cover call all the colleges right the way

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please coordinate the reply.

Yes
Shored
Contract

11. Welfare -- Welfare-to-Work Partnership: As a follow-up to the State of the Union, we would like to draft a letter from you thanking the members of the Welfare-to-Work Partnership. We propose that you send personal letters (which we will draft) to the five founding members and to one or two other companies that have made outstanding efforts. In addition, if you agree, we will explore the possibility of sending a more generic letter to all of the Partnership's 3,000 members.

The five founding members -- Sprint, Monsanto, UPS, Burger King, and United Airlines -- have played key roles in helping the Partnership grow, with most also hiring significant numbers of people from the welfare rolls. UPS has hired 8,268 welfare recipients since last January. Burger King hired 5,042 people off welfare between October 1996 and December 1997, far exceeding its 1997 goal of 1,500. United hired 535 former welfare recipients in 1997, exceeding its goal of 400 and putting the company ahead of schedule on its pledge to hire 2,000 recipients by the year 2000. The company says the retention rate for its welfare-to-work hires is twice that of other employees. Sprint has hired 88 welfare recipients to date, and sponsors the toll-free line the Partnership uses to give information to other interested companies. Monsanto has played a key role in recruiting other companies, but has few hires to date because of a dearth of entry-level positions. The company has launched training programs in four cities from which it expects in the future to hire welfare recipients. A sixth company which has now joined the Partnership Board -- TJX -- has hired over 1,500 former welfare recipients in its TJ Maxx and Marshalls stores, and has pledged to hire 5,000 by the year 2000.

Suzanne
W. Winters
C. K. ...?

12. Welfare -- Residency Requirements: The United States Court of Appeals for the Ninth Circuit last week invalidated a provision in California's TANF plan to give new residents (those in the state for less than a year) only the amount of welfare benefits they would have received in the states from which they moved. The welfare law specifically authorizes states to adopt this kind of scheme, in order to lessen the fear of high-benefit states that they will become welfare magnets. At least 14 states in addition to California have taken advantage of this authorization. The Ninth Circuit -- the first appellate court to rule on the subject -- held that the two-tiered residency scheme violates both equal protection and the right to travel. Many observers believe that the Supreme Court will grant cert in the case, so that it can overrule the Warren Court's right-to-travel jurisprudence.

13. Drugs -- Crack Cocaine: Senator Lott has listed cocaine penalties as among the items that the Senate will take up prior to the Easter recess. As you recall, the Attorney General and ONDCP Director jointly recommended revising the triggers for a 5-year mandatory sentence from 5 grams for crack and 500 grams for powder to 25 grams for crack and 250 grams for powder -- a "pinch" of the crack and powder triggers producing a ratio of 10:1 rather than the current 100:1. The proposal Senator Lott is threatening to bring to a vote this spring is very different. It would maintain the current five-gram threshold for crack, while lowering the powder threshold to 100, for a ratio of 20:1. This proposal, which reduces the crack-to-powder ratio but only by creating yet another unreasonably low trigger, probably would pass both

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Houses of Congress, over the objection of members of the Black Caucus and other liberal Democrats.

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14. **Family Planning -- Emergency Contraception:** You recently asked, in response to a column by Judy Mann, whether HHS should do more to promote the availability of emergency contraception. In fact, HHS already has taken aggressive steps to do so. Last year, the FDA published a notice in the Federal Register declaring that emergency contraception is safe and effective and requesting that manufacturers of oral contraceptives apply to the FDA for permission to market their products for emergency use. FDA hopes that this unusual pre-application finding of safety and efficacy will persuade manufacturers to market oral contraceptives for emergency use, which will increase awareness of this option among both doctors and their women patients.

THE WHITE HOUSE
WASHINGTON

February 6, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Health Care -- Dr. Satcher's Confirmation Vote: Next Tuesday, the Senate is scheduled to vote on Dr. Satcher's nomination to become Surgeon General. Our current vote count is 66 votes and we believe that we may get more than 70. Should Dr. Satcher be confirmed, this would fill an approximately three year void in the Surgeon General position. We are currently considering recommending a picture of you and/or the Vice President swearing Dr. Satcher in for this post.

2. Health Care -- Congressman John Dingell Update: Following up on your conversation with John Dingell, Larry Stein, Bruce Reed and Chris Jennings met with the Congressman on Thursday to discuss prospects of and strategy for the consumer protections legislative debate and Dingell's role on the Medicare Commission. We agreed to continue to give technical assistance to the House Democratic Caucus consumer protections bill as well as to make positive statements about it without giving an all out endorsement. The current bill goes farther than is likely to be passed in the Congress and may well be vulnerable to criticisms about excessive costs and regulations. As of yet, we have avoided having to take a position on most of the controversial positions in Dingell's bill. We will keep working with him to make his bill more acceptable to the business community and key validators.

3. Education -- National Testing: Goodling's bill to prohibit further development of national tests without specific authorization, beyond what was explicitly agreed to in the FY98 appropriations bill, passed by a vote of 242-174. We picked up 50 more Democrats than we had last fall. Both the Black and Hispanic Caucuses opposed Goodling's bill, partly in recognition of the substantial and targeted education investments in your budget, and partly because they viewed Goodling's bill as a partisan effort to embarrass the Administration. The bill will likely die in the Senate, but we still face a tough appropriations battle this fall.

4. Child Care -- Current Legislation: On Thursday, Senator Dodd and a group of 24 Democratic Senators introduced child care legislation similar both to your proposal and to the Chafee bill introduced last week. While the Dodd bill is substantially similar to your child care initiative, it makes the dependent care tax credit refundable and makes it available to stay-at-home

parents. In addition, on Tuesday, Congresswoman Nancy Johnson introduced the Chafee bill in the House.

5. Drugs -- Home Drug Tests: Next week, HHS/FDA is planning to release a proposed regulation for "home drug test kits." HHS/FDA intends to codify its policy of the past year to allow manufacturers to market these kits without prior FDA approval. Under the proposed regulation, Sunny Cloud -- the individual who initially challenged HHS/FDA's -- could continue to market her home drug test kits. However, proponents of hair testing, which until now did not require FDA approval, are likely to be unhappy with the regulation. The proposed regulation has no impact on law enforcement-related drug tests.

6. Welfare Reform -- Performance Bonuses: We are now nearly ready for you to announce two new nationwide competitions to promote work and personal responsibility. The first competition will award \$1 billion in bonuses -- \$200 million a year over the next five years -- to states that do the best job of placing welfare recipients into jobs and helping them succeed in the work place. Sixty percent of the funds will be distributed based on states' success in placing people in jobs (40 percent to states with the highest job entry rate and 20 percent for those with the most improved rate). Forty percent of the funds will be distributed based on how well former recipients succeed in the work place, a measure based on job retention and earnings gains (with 25 percent for absolute achievement and 15 percent for improvement). The second bonus will distribute \$100 million a year to states that reduce their "illegitimacy ratio"-- i.e., the percentage of children born out of wedlock (by statute, states must also have an abortion rate lower than their 1995 rate to win the bonus).

7. Cloning -- Legislation to Ban Human Cloning: Next week, the Senate will take up legislation sponsored by Senators Frist and Bond to ban human cloning. The bill goes farther than the biotechnology community believes necessary, and may interfere with promising future research, by effectively banning all cloning experiments with human cells and blocking research that might someday be conducted to combat diseases such as diabetes and cancer. We are working with Senators Kennedy and Feinstein to negotiate legislation you could sign. One option may be the addition of a sunset provision that bans human embryo research for a short time, but allows Congress to revisit the issue when scientists may actually be ready to take advantage of this technology for human research. The House is expected to take a much harder line, so our best hope is in the Senate.

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THE WHITE HOUSE

WASHINGTON

February 6, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena KaganSUBJECT: DPC Weekly Report

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Chris - What's the answer to the POTUS's question on p. 3? - i.e., both the DOT's answer and the next answer? Should we say anything to the President about this next week?

THE PRESIDENT HAS SEEN
11-19-97

WASHINGTON

November 14, 1997

Elena
MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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Emanuel (p.5)*

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1. **Family -- Adoption Legislation:** You are scheduled to sign new adoption legislation on Wednesday, in an event giving a prominent role to the First Lady. The legislation is a huge step forward in promoting adoption and improving our nation's child welfare system. The final bill largely incorporates the Administration's proposals in this area. In particular, the bill (1) makes clear that children's health and safety are the paramount concerns of the public child welfare system; (2) clarifies the "reasonable efforts" standard; (3) speeds up court hearings for children in foster care and generally requires states to initiate proceedings to terminate parental rights after a child has been in foster care for 15 of the previous 22 months; (4) provides states with financial incentives to increase the number of children who are adopted; (5) reauthorizes the Family Preservation Program (staving off an expected battle next year) and increases its funding; (6) ensures health coverage for adopted children with special needs by requiring states to provide coverage through Medicaid or the new child health program; (7) expands HHS's authority to issue waivers to states for child welfare and foster care demonstration projects; and (8) breaks down barriers to adoptions across state lines by prohibiting states from denying a suitable out-of-state adoption when no in-state adoption is available.

2. **Health -- FDA Reform Legislation:** You are scheduled to sign FDA reform legislation on Friday. This legislation reauthorizes the very successful user fee program that has enabled the FDA to speed the approval of new drugs. The bill also codifies the REGO reforms, emphasizing agency performance and accountability, that the Vice President successfully implemented at the FDA in 1995 and 1996. In the course of considering the legislation, Congress deleted or amended the provisions (involving, for example, off-label uses of drugs and devices) to which consumer advocates most strongly objected. We worked closely with Senator Kennedy in the effort to ensure consumer protections, and he happily cast the 100th vote in the Senate's unanimous passage of this legislation.

3. **Health -- Quality Commission:** You are scheduled to accept the Quality Commission's Bill of Rights on Thursday. We plan to submit a memo to you early this week summarizing the Bill of Rights and recommending an appropriate response. We are also reviewing possible executive actions to improve the quality of health care in the federal government. We will discuss these proposals in the memo as well. As a lead-up to your announcement on Thursday, we have

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asked the board of the Journal of the American Medical Association (JAMA) to brief the Vice President, Secretary Shalala, and Secretary Herman on its upcoming issue, which is dedicated entirely to concerns about health care quality. JAMA representatives are previewing this issue at the National Press Club on Tuesday, and an event with the Vice President on the same day should take advantage of media interest and provide a good basis for your announcement later that week.

4. **Health -- Satcher Nomination:** The Senate adjourned before acting on the nomination of Dr. David Satcher, notwithstanding a 12-5 committee vote in favor of confirmation. Senator Ashcroft placed a hold on the vote on the ground that Dr. Satcher supports the Administration's position on late term abortion. Some have suggested that the Senator took this action solely to position himself for a 2000 Presidential run. Dr. Satcher has never played a prominent role in the abortion debate and has disavowed any intent to use the Office of the Surgeon General to forward any "abortion rights agenda." Dr. Satcher continues to enjoy the strong support of a number of Republican Senators (Frist, Nickles, Jeffords) and of virtually every credible health care group in the nation, including the AMA. Although we are optimistic that the Senate will vote to confirm Dr. Satcher soon after returning in January, we will work hard throughout the recess to ensure that this nomination does not become a referendum on partial birth abortion.

5. **Health -- HHS Study on Take-Up Rates for Health Insurance:** You recently asked about an HHS study showing a decline in take-up rates for health insurance. The study reported on 10-year trends in access to and participation in employer-sponsored health insurance. It found that between 1987 and 1996, the proportion of workers with access to employer-based insurance remained constant at about 82 percent. The proportion of workers accepting that coverage, however, declined from 93 to 89 percent. The decline was most pronounced for young and low-income people; only about 75 percent of the individuals in each of these groups with access to insurance decided to purchase it. The study noted that the decline in take-up rates occurred during a period when premiums increased three times as much as wages. These findings confirm what the Administration has long recognized -- that affordability of insurance is as important as access to insurance. We hope that we will have an opportunity to build next year upon our efforts in granting Medicaid waivers and enacting the Children's Health Insurance Program to provide premium assistance for uninsured Americans.

6. **Tobacco/Health -- Florida Tobacco Settlement and Children's Coverage:** You asked last week whether we could agree to Florida's proposal to keep all the money it will gain from settling with the tobacco industry on condition that it use that money to expand children's health coverage. Current law gives us little room to enter into this kind of arrangement. The statute explicitly requires us to collect a specified share of any Medicaid dollars that states have recaptured. If we do not, private plaintiffs are likely to bring *qui tam* suits on behalf of U.S. taxpayers against Florida and other settling states; recovery in such suits would be split between the federal treasury (70-85 percent) and the private plaintiffs (15-30 percent). Of course, the federal government would have no right to recover (and any *qui tam* suits would fail) if the monies gained from the settlement were not Medicaid-related. But the Department of Justice believes that the damages Florida claimed -- and the amount it received in the settlement -- derive

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9. **Welfare -- New Regulations:** The Administration will announce two sets of new regulations on Monday: (1) proposed regulations from HHS to states operating the TANF program (essentially, the regulations for the entire welfare law), and (2) interim final regulations from the Department of Labor to states and localities receiving grants from the \$3 billion Welfare to Work fund you won in the balanced budget agreement. The welfare to work regulation should arouse little comment. The TANF regulation, by contrast, may provoke extensive reaction from both Governors and advocates. As we told you in a prior weekly report, we worked extensively with HHS on this regulation. In the end, we were able to resolve all issues in a way that we think reinforces the importance of the law's work requirements while giving states flexibility to design welfare reform programs and a fair opportunity to correct any failures.

Under the TANF regulations, states that fail the work rates will be levied a penalty based on performance -- how close they came to meeting the rates. States will have the opportunity to correct or eliminate violations through a corrective compliance plan, and states that make substantial progress during their corrective compliance period will be eligible for a reduced or eliminated penalty. To protect states from unreasonable risk, the penalty for failing to meet the two-parent participation rate will be proportional to the size of the two-parent caseload in the state.

The regulation creates a system of disincentives to prevent states from gaming the work requirements, either by placing hard-to-employ individuals in state maintenance-of-effort programs (where the work rates do not apply) or by reclassifying the benefits received by these individuals as child-only (so that the individuals do not figure in the state's calculation of work rates). If the Secretary finds that a state has diverted recipients into a state program or reclassified benefits as child-only to evade the work requirements, she will refuse to reduce or limit the size of any penalties levied for failing to meet the work rates or time limits. The same disincentives apply when a state places individuals receiving child support payments in its state maintenance-of-effort program so as to prevent the federal government from gaining a share of these payments.

The regulation, like the law, allows states to reduce the required work participation rate by the percent the caseload has declined since 1995, so long as the lower caseloads are not due to new eligibility restrictions. HHS initially proposed that states should not get a credit for caseload reductions attributable to enforcement measures like fingerprinting, but ultimately agreed to change this position.

The regulation also addresses Sen. Murray's concerns about victims of domestic violence without threatening the integrity of the work rules. Under the regulation, a state will not be penalized for failing to meet work rates or time limits if its failure to do so is attributable to granting waivers to victims of domestic violence -- provided that the waivers are temporary and that they are accompanied by services to help the individual prepare for work and self-sufficiency. Sen. Murray may think that the regulation does not go far enough, but we think it represents the best accommodation of the full range of interests.

10. **Immigration -- Central Americans/Haitians:** The D.C. appropriations bill, as finally enacted, includes provisions to (1) give amnesty to certain Nicaraguans and Cubans, (2) ensure application of the old immigration law's standards to certain Guatemalans, Salvadorans, and East Europeans, and (3) reduce the number of unskilled worker visas and diversity visas. Although the bill provides no relief to Haitians, we were able to secure commitments from the Republican leadership to consider legislation on this issue early next session. These commitments allowed the Attorney General to announce that the Department of Justice would suspend the deportation of any Haitians covered by the proposed legislation for approximately six months.

11. **Crime -- Crime Statistics:** The Justice Department released new crime data on Saturday from the annual National Crime Victimization Survey (NCVS). The highlights of the survey were included in this week's radio address. Crime victimization rates are today at their lowest level since the inception of the NCVS in 1973. The murder and violent crime rates fell 10 percent and property crime rates fell 8 percent in 1996. The decreases are even more significant when viewed over time: since 1993, violent and property crime rates dropped 16 percent and 17 percent respectively, and murder rates dropped a stunning 22 percent. Equally notable, these reductions were felt by all Americans -- by men and women alike, and by individuals from every racial group and income level.

12. **Crime -- Juvenile Crime:** The final Commerce/Justice/State appropriations bill contains significant new funding for our key juvenile crime priorities. The bill authorizes and funds a new \$250 million Juvenile Accountability Incentive Block Grant, 45 percent (\$113 million) of which must be spent on prosecutors, probation officers, and juvenile gun and drug court programs. Our budget contained \$150 million in direct funding for the same purposes. In addition, the Labor-HHS appropriations bill provides substantial new funding (\$40 million) for afterschool programs through the 21st Century Schools Program at the Department of Education. We proposed \$63 million for afterschool programs in our budget.

13. **Race/Education -- Urban Education Initiatives:** DPC staff met this week with senior representatives of several national organizations interested in urban education, including the Council of Great City Schools, the U.S. Conference of Mayors, the National Urban League, the Rainbow Coalition, the AFT and NEA, and MALDEF. Our staff provided a broad overview of education proposals under consideration for FY 1999, including (1) the College-School Partnership initiative to increase college enrollment among low income and minority students by providing mentoring and other support services and (2) the Education Opportunity Zone initiative to provide increased educational assistance to high-poverty districts that agree to adopt a standards-based reform agenda involving the end of social promotions, the removal of bad teachers, and the reconstitution of failing schools. The groups generally liked these proposals, but expressed a wide range of views about student accountability provisions. The AFT felt strongly that even the mentoring initiative should include a requirement that students meet certain academic standards, while the civil rights groups expressed opposition to any performance requirements.

14. **Race/Education -- California Bilingual Education Ballot Initiative:** Opponents of bilingual education in California have collected enough signatures to place an initiative on the June

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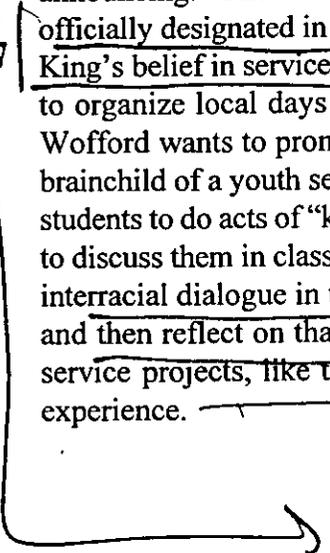
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1998 ballot to require that Limited English Proficient (LEP) children be taught in English (specifically, in "sheltered English immersion" classes for one year and then in ordinary English-language classes) unless a parent requests bilingual instruction. A recent Los Angeles Times poll found that over 80 percent of Californians supported such an initiative, including 84 percent of Latino voters. Most Hispanic groups have come out against the initiative, as has the California Teachers Association and Sen. Boxer. Other education groups and most public officials (Gov. Wilson, Lt. Gov. Davis, Attorney General Lungren, and Sen. Feinstein) have not yet taken positions on the initiative. The DPC has convened a working group with representation from the Department of Education and other White House offices to review the educational, legal, and political issues this initiative raises and provide you with appropriate analysis and advice. At this early stage, everyone in the group agrees that you should refrain from taking a formal position on the initiative.

→ agrees

15. Race -- Service Initiatives: We are working with the Corporation for National Service and the PIR on several race-related service initiatives that you might want to take a part in announcing. The actions are designed to lead up to Martin Luther King Day, which Congress officially designated in 1994 as a day of service -- "a day on, not a day off" -- in recognition of Dr. King's belief in service activities. The CNS will award \$225,000 in mini-grants to 70 communities to organize local days of service in observance of Martin Luther King Day. In addition, Harris Wofford wants to promote something called the "Kindness and Justice Curriculum," which is the brainchild of a youth service group involving Dexter King. The group is encouraging schools and students to do acts of "kindness and justice" in the two weeks leading up to Martin Luther King Day, to discuss them in class, and to post them on the Web. Finally, we are exploring ways to encourage interracial dialogue in the Corporation's service-learning programs, where children serve together and then reflect on that experience in school. These efforts can build on successful AmeriCorps service projects, like the CityYear program, that focus on diversity issues as part of the service experience.

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yes - I should do service that day in interclass efforts. Hopefully w/ AmeriCorps

2-9-98

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THE WHITE HOUSE
WASHINGTON

February 6, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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1. **Health Care -- Dr. Satcher's Confirmation Vote:** Next Tuesday, the Senate is scheduled to vote on Dr. Satcher's nomination to become Surgeon General. Our current vote count is 66 votes and we believe that we may get more than 70. Should Dr. Satcher be confirmed, this would fill an approximately three year void in the Surgeon General position. We are currently considering recommending a picture of you and/or the Vice President swearing Dr. Satcher in for this post.

2. **Health Care -- Congressman John Dingell Update:** Following up on your conversation with John Dingell, Larry Stein, Bruce Reed and Chris Jennings met with the Congressman on Thursday to discuss prospects of and strategy for the consumer protections legislative debate and Dingell's role on the Medicare Commission. We agreed to continue to give technical assistance to the House Democratic Caucus consumer protections bill as well as to make positive statements about it without giving an all out endorsement. The current bill goes farther than is likely to be passed in the Congress and may well be vulnerable to criticisms about excessive costs and regulations. As of yet, we have avoided having to take a position on most of the controversial positions in Dingell's bill. We will keep working with him to make his bill more acceptable to the business community and key validators.

3. **Education -- National Testing:** Goodling's bill to prohibit further development of national tests without specific authorization, beyond what was explicitly agreed to in the FY98 appropriations bill, passed by a vote of 242-174. We picked up 50 more Democrats than we had last fall. Both the Black and Hispanic Caucuses opposed Goodling's bill, partly in recognition of the substantial and targeted education investments in your budget, and partly because they viewed Goodling's bill as a partisan effort to embarrass the Administration. The bill will likely die in the Senate, but we still face a tough appropriations battle this fall.

4. **Child Care -- Current Legislation:** On Thursday, Senator Dodd and a group of 24 Democratic Senators introduced child care legislation similar both to your proposal and to the Chafee bill introduced last week. While the Dodd bill is substantially similar to your child care initiative, it makes the dependent care tax credit refundable and makes it available to stay-at-home

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parents. In addition, on Tuesday, Congresswoman Nancy Johnson introduced the Chafee bill in the House.

5. **Drugs -- Home Drug Tests:** Next week, HHS/FDA is planning to release a proposed regulation for "home drug test kits." HHS/FDA intends to codify its policy of the past year to allow manufacturers to market these kits without prior FDA approval. Under the proposed regulation, Sunny Cloud -- the individual who initially challenged HHS/FDA's -- could continue to market her home drug test kits. However, proponents of hair testing, which until now did not require FDA approval, are likely to be unhappy with the regulation. The proposed regulation has no impact on law enforcement-related drug tests.

6. **Welfare Reform -- Performance Bonuses:** We are now nearly ready for you to announce two new nationwide competitions to promote work and personal responsibility. The first competition will award \$1 billion in bonuses -- \$200 million a year over the next five years -- to states that do the best job of placing welfare recipients into jobs and helping them succeed in the work place. Sixty percent of the funds will be distributed based on states' success in placing people in jobs (40 percent to states with the highest job entry rate and 20 percent for those with the most improved rate). Forty percent of the funds will be distributed based on how well former recipients succeed in the work place, a measure based on job retention and earnings gains (with 25 percent for absolute achievement and 15 percent for improvement). The second bonus will distribute \$100 million a year to states that reduce their "illegitimacy ratio"-- i.e., the percentage of children born out of wedlock (by statute, states must also have an abortion rate lower than their 1995 rate to win the bonus).

7. **Cloning -- Legislation to Ban Human Cloning:** Next week, the Senate will take up legislation sponsored by Senators Frist and Bond to ban human cloning. The bill goes farther than the biotechnology community believes necessary, and may interfere with promising future research, by effectively banning all cloning experiments with human cells and blocking research that might someday be conducted to combat diseases such as diabetes and cancer. We are working with Senators Kennedy and Feinstein to negotiate legislation you could sign. One option may be the addition of a sunset provision that bans human embryo research for a short time, but allows Congress to revisit the issue when scientists may actually be ready to take advantage of this technology for human research. The House is expected to take a much harder line, so our best hope is in the Senate.

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THE WHITE HOUSE
WASHINGTON

THE PRESIDENT WAS SEEN
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January 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

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SUBJECT: DPC Weekly Report

1. Child Care -- Response to Announcement: We are pleased with the response so far to your child care initiative. Children's advocates and child care experts are overjoyed at both the level of funding and the composition of the package (e.g., the ratio of subsidies to tax cuts). Hill Democrats and some moderate Republicans are enthusiastic about the package, as you heard at Thursday's congressional meeting. Governors -- including a few Republicans -- have praised the extent of state flexibility in the plan. Even conservative Republicans in Congress had a hard time attacking your proposal. Rep. Pryce, whom Speaker Gingrich asked to respond to the proposal for the House Republican leadership, admitted that you had "resisted the urge to have the federal government control child care." Some Republicans alternated between accusing you of spending too much money and trying to claim that they had spent even more for child care in the past.

The most serious criticism, which we knew we would face, is that the package does little to help parents who want to stay at home to care for their children. (A similar point was made in the opinion piece by David Blankenhorn appearing in the New York Times that you recently asked us about; as you recall, he criticizes tax cuts for child care and supports expanding the child tax credit to help parents of young children stay at home.) As you know, we can blunt this charge somewhat by coming out for an expansion of the FMLA in the State of the Union to allow more workers to stay at home for longer periods with their newborns. We are also open to discussing with members of Congress an expansion of the child tax credit, although we found such proposals too expensive to incorporate into our package. Most important, we cannot let anyone forget your consistent record of providing families with real opportunity and choices -- for example, through the child tax credit, FMLA, EITC, minimum wage, and CHIP.

2. Health -- Response to Medicare Buy-in Announcement: Your Medicare buy-in proposal provoked a great deal of comment. Some Republicans, including Senator Gramm and Rep. Bill Thomas, were extremely critical of the proposal, arguing that it would exacerbate Medicare's financial problems. (Gramm compared Medicare to the Titanic and warned about putting extra passengers on board.) The base Democrats were very pleased with the proposal -- particularly after Republicans strongly opposed it. Though liberal groups also were pleased that we are addressing this issue, they believe we must include some kind of subsidy for low-income Americans. Elite validators gave this policy mixed reviews: while uniformly recognizing the

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need of this population for affordable insurance, some (including the New York Times) praised the self-financing feature of the program, while others expressed concern that the proposal would create the demand for further, less fiscally responsible subsidization.

3. Drugs -- Substance Abuse and Prisoners: The National Center on Addiction and Substance Abuse released a study on Thursday finding that drug or alcohol use helped lead to the incarceration of 80 percent of all inmates in the nation's prisons and jails. According to the report, 1.4 million prisoners (out of a total 1.7 million) were high on drugs or alcohol when they committed their crimes, stole property to buy drugs, and/or had a history of drug and alcohol abuse.

As you know, the 1994 Crime Law mandates that 100 percent of all federal prisoners defined as eligible receive substance abuse treatment by 1997. According to the Bureau of Prisons, the federal prison system has met this requirement. Since 1994, we have made some form of substance abuse treatment available in every federal prison facility, tripled the total number of inmates treated in the federal system, and increased the number of residential treatment centers in federal prisons by 30 percent (from 32 to 42). In addition, legislation you offered requires states to submit comprehensive plans of testing, sanctions, and treatment by March 1998 as a condition of receiving prison construction funding.

But what about the states - all states need more funding

To build on these efforts, we are preparing a directive from you to the Attorney General to: (1) require states, as part of their testing and treatment plans, to estimate current drug use in prisons and measure progress yearly; (2) draft legislation to allow states to use prison construction funds to implement their testing and treatment plans; and 3) draft legislation to require states to enact increased penalties for smuggling drugs into prisons as a condition of receiving prison construction monies. An event focusing on this directive is tentatively scheduled for Monday.

4. Drugs -- Anti-Drug Media Campaign: The anti-drug media campaign began on Thursday in Washington, D.C. -- the first city in the 12-city pilot. Anti-drug advertisements have started to air in the District during prime-time network television shows, with radio and Internet ads to commence next week. ONDCP will roll out the media campaign in the remaining pilot cities throughout the month of January. The other 11 pilot cities and rollout dates are as follows: Atlanta (1/20), Baltimore (1/13), Boise (1/13), Denver (1/16), Hartford (1/23), Houston (1/15), Milwaukee (1/21), Portland (1/22), San Diego (1/9), Sioux City (1/20), and Tucson (1/15).

5. Crime -- Brady Checks: As you know, Arkansas remains the only state that is not conducting background checks prior to handgun sales. Although Attorney General Winston Bryant issued an opinion saying that state police have the legal authority to conduct checks, Governor Huckabee has ordered the police not to do so. In response, Bryant has asked the Treasury and Justice Departments to make him (rather than the state police) the designated chief law enforcement officer for the entire state; under this scheme, federally licensed dealers would refer the names of potential handgun purchasers to the AG's office, and employees of that office

*cc: Bolin
1st time to make a big deal of this - Attorney General*

would check the names in the FBI's NCIC (rather than the state police's) database. Justice and Treasury are currently inclined to grant Bryant's request later this month. This action may provoke a strong response from Huckabee, who is currently not aware of Bryant's request.

6. Crime -- Slain Officers: The National Law Enforcement Officers Memorial Fund (NLEOMF) reported last week that the number of officers killed in the line of duty increased by nearly 40% in 1997, from 116 in 1996 (the lowest number since 1959) to 159 last year. The 1997 figure exceeds the 1990s average of 151 line-of-duty deaths per year. NLEOMF attributes the rise in deaths to: (1) an increase in firearms-related deaths (70 in 1997, as compared to 56 in 1996); (2) an unusually high number of traffic fatalities; and (3) 10 multiple-death incidents, in which a total of 22 officers were killed.

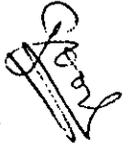
7. Welfare -- Child Support Computer Systems: We are working closely with a House-Senate group convened by Rep. Clay Shaw's staff on the child support computer systems issue you discussed with Senator Feinstein this fall. Our goal is to put in place a new system of penalties that are large enough to ensure that states develop effective computer systems, but not so large as to disrupt states' child support collection efforts. As you know, current law requires us to withhold all federal child support funds from a state without a statewide child support computer system -- a penalty we intend to retain in the legislation (at least as a threat) for egregious cases. Shaw's initial proposal, which we think makes sense, would impose an initial penalty of 4 percent of federal child support funds in the first year, with higher penalties in later years. Once a state's system is complete, it could earn back a portion of the penalty. Shaw wants to introduce legislation the first day of Congress and move it through the House by the second week of February. As always, the Senate is expected to move more slowly, but could pass the legislation by April. By then, HHS expects nine states to remain without statewide computer systems: California, Michigan, Illinois, Ohio, Pennsylvania, Indiana, Hawaii, Oregon, and New Mexico.

8. Welfare -- Welfare Recipients in College: You recently asked us about a report in the Washington Post that some college students on welfare are dropping out of school to meet new work requirements. As you know, the welfare law does not count education that is not directly related to a job toward the work participation rates. States, however, have significant flexibility to excuse college students from work, given that the required participation rate is now at 30 percent and peaks at 50 percent. In addition, welfare recipients can combine work with their studies (as most college students do), particularly if work-study jobs are available. To encourage this result, we asked Secretaries Riley and Shalala to write to the nation's college presidents in September to explain the law and stress the importance of providing work-study jobs to welfare recipients enrolled in their schools. (Most work-study jobs are only 10 hours per week, but the letter explained that this is not a legal requirement.)

9. Welfare -- Delaware Evaluation: Governor Carper released on Monday an evaluation of the state's welfare reform waiver program called A Better Chance (ABC). The program began in 1995 as one of the first comprehensive statewide waivers granted by the

Administration. Initial results are encouraging: by the fourth quarter after the program started, program participants had 24 percent higher employment, 16 percent higher earnings, and 18 percent lower average benefits than the participants in the control group. The evaluation found a fairly high rate of sanctioning: 49 percent of the participants were sanctioned at least once for failing to comply with the program's employment or family responsibility (immunization, school attendance) requirements. It is interesting to note in evaluating these results that Delaware's caseloads have not gone down as dramatically as those of many other states; the decline since January 1993 has been 21 percent. This relatively low decline may result from ABC's "make work pay" incentive that allows recipients to keep more earnings and still remain eligible for welfare.

10. Education -- California Math Standards: Proposed new math standards in California have provoked a heated debate in the last few months, pitting educators who emphasize problem solving against those who favor a more basic skills approach. The California State Board of Education last month adopted the more conservative view, over the objection of Superintendent Delaine Eastin. The head of the Education Directorate at the National Science Foundation subsequently sent a letter to the Chair of the California State Board strongly criticizing the decision and implying that it would jeopardize continued NSF funding for six Urban Systemic Improvement sites in California. The letter upset conservatives (and others), who viewed it -- in our view, correctly -- as an example of inappropriate federal intrusion in state curriculum matters. Diane Ravitch warned us immediately that it could give Bill Bennett a pretext for withdrawing his support of your national testing initiative. As a result, we worked with NSF this week to draft a letter from NSF Director Lane to the California State Board clarifying that NSF would not second-guess state standards and emphasizing the importance of basic skills. Based on recent conversations with Ravitch, we believe this step has been sufficient to prevent Bennett's reversal.



11. Education -- Urban Education Report: Education Week issued its annual report on education reform in the 50 states on Thursday, focusing on the plight of urban school districts. The study noted that approximately 40 percent of students in urban districts reached the basic level on the most recent NAEP 4th grade reading and 8th grade math and science exams in 1994 and 1996, compared to over 60 percent in each of these subjects in non-urban areas. The study also found discrepancies in resources, with urban districts spending about \$500 less per child annually than non-urban districts. The Education Week issue also detailed a dozen promising reform strategies to raise achievement in districts around the nation -- e.g., setting high standards; holding schools accountable for results and giving schools greater flexibility; creating small, more intimate schools or schools-within-schools; recruiting well-prepared teachers and providing them with continuing training and support; training principals to be effective school leaders; and promoting school choice. Your existing and planned initiatives -- including the new Education Opportunity Zones proposal that you previewed in December -- match up very well with these reform prescriptions.

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12. Education -- Life-long Learning Card: You recently asked us about Bob Reich's idea of a life-long learning card -- essentially a bank card consolidating all federal education benefits (Pell, IRAs, education tax credits and deductions, and job-training funds), against which education expenses could be deducted. DPC and NEC staff have begun to look into this proposal, but we do not yet have a specific recommendation. The Education Department is currently intending to begin a pilot project by October 2000 to use bank cards to disburse federal aid to post-secondary students. Our instinct is that bank cards may be effective to deliver grants and loans, but less useful for tax credits and deductions. We will continue to explore this issue.

→ This is an exciting possibility - more MBF for the federal government through

THE WHITE HOUSE
WASHINGTON

January 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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5. Crime -- Brady Checks: As you know, Arkansas remains the only state that is not conducting background checks prior to handgun sales. Although Attorney General Winston Bryant issued an opinion saying that state police have the legal authority to conduct checks, Governor Huckabee has ordered the police not to do so. In response, Bryant has asked the Treasury and Justice Departments to make him (rather than the state police) the designated chief law enforcement officer for the entire state; under this scheme, federally licensed dealers would refer the names of potential handgun purchasers to the AG's office, and employees of that office

would check the names in the FBI's NCIC (rather than the state police's) database. Justice and Treasury are currently inclined to grant Bryant's request later this month. This action may provoke a strong response from Huckabee, who is currently not aware of Bryant's request.

6. Crime -- Slain Officers: The National Law Enforcement Officers Memorial Fund (NLEOMF) reported last week that the number of officers killed in the line of duty increased by nearly 40% in 1997, from 116 in 1996 (the lowest number since 1959) to 159 last year. The 1997 figure exceeds the 1990s average of 151 line-of-duty deaths per year. NLEOMF attributes the rise in deaths to: (1) an increase in firearms-related deaths (70 in 1997, as compared to 56 in 1996); (2) an unusually high number of traffic fatalities; and (3) 10 multiple-death incidents, in which a total of 22 officers were killed.

7. Welfare -- Child Support Computer Systems: We are working closely with a House-Senate group convened by Rep. Clay Shaw's staff on the child support computer systems issue you discussed with Senator Feinstein this fall. Our goal is to put in place a new system of penalties that are large enough to ensure that states develop effective computer systems, but not so large as to disrupt states' child support collection efforts. As you know, current law requires us to withhold all federal child support funds from a state without a statewide child support computer system -- a penalty we intend to retain in the legislation (at least as a threat) for egregious cases. Shaw's initial proposal, which we think makes sense, would impose an initial penalty of 4 percent of federal child support funds in the first year, with higher penalties in later years. Once a state's system is complete, it could earn back a portion of the penalty. Shaw wants to introduce legislation the first day of Congress and move it through the House by the second week of February. As always, the Senate is expected to move more slowly, but could pass the legislation by April. By then, HHS expects nine states to remain without statewide computer systems: California, Michigan, Illinois, Ohio, Pennsylvania, Indiana, Hawaii, Oregon, and New Mexico.

8. Welfare -- Welfare Recipients in College: You recently asked us about a report in the Washington Post that some college students on welfare are dropping out of school to meet new work requirements. As you know, the welfare law does not count education that is not directly related to a job toward the work participation rates. States, however, have significant flexibility to excuse college students from work, given that the required participation rate is now at 30 percent and peaks at 50 percent. In addition, welfare recipients can combine work with their studies (as most college students do), particularly if work-study jobs are available. To encourage this result, we asked Secretaries Riley and Shalala to write to the nation's college presidents in September to explain the law and stress the importance of providing work-study jobs to welfare recipients enrolled in their schools. (Most work-study jobs are only 10 hours per week, but the letter explained that this is not a legal requirement.)

9. Welfare -- Delaware Evaluation: Governor Carper released on Monday an evaluation of the state's welfare reform waiver program called A Better Chance (ABC). The program began in 1995 as one of the first comprehensive statewide waivers granted by the

Administration. Initial results are encouraging: by the fourth quarter after the program started, program participants had 24 percent higher employment, 16 percent higher earnings, and 18 percent lower average benefits than the participants in the control group. The evaluation found a fairly high rate of sanctioning: 49 percent of the participants were sanctioned at least once for failing to comply with the program's employment or family responsibility (immunization, school attendance) requirements. It is interesting to note in evaluating these results that Delaware's caseloads have not gone down as dramatically as those of many other states; the decline since January 1993 has been 21 percent. This relatively low decline may result from ABC's "make work pay" incentive that allows recipients to keep more earnings and still remain eligible for welfare.

10. Education -- California Math Standards: Proposed new math standards in California have provoked a heated debate in the last few months, pitting educators who emphasize problem solving against those who favor a more basic skills approach. The California State Board of Education last month adopted the more conservative view, over the objection of Superintendent Delaine Eastin. The head of the Education Directorate at the National Science Foundation subsequently sent a letter to the Chair of the California State Board strongly criticizing the decision and implying that it would jeopardize continued NSF funding for six Urban Systemic Improvement sites in California. The letter upset conservatives (and others), who viewed it -- in our view, correctly -- as an example of inappropriate federal intrusion in state curriculum matters. Diane Ravitch warned us immediately that it could give Bill Bennett a pretext for withdrawing his support of your national testing initiative. As a result, we worked with NSF this week to draft a letter from NSF Director Lane to the California State Board clarifying that NSF would not second-guess state standards and emphasizing the importance of basic skills. Based on recent conversations with Ravitch, we believe this step has been sufficient to prevent Bennett's reversal.

11. Education -- Urban Education Report: Education Week issued its annual report on education reform in the 50 states on Thursday, focusing on the plight of urban school districts. The study noted that approximately 40 percent of students in urban districts reached the basic level on the most recent NAEP 4th grade reading and 8th grade math and science exams in 1994 and 1996, compared to over 60 percent in each of these subjects in non-urban areas. The study also found discrepancies in resources, with urban districts spending about \$500 less per child annually than non-urban districts. The Education Week issue also detailed a dozen promising reform strategies to raise achievement in districts around the nation -- e.g., setting high standards; holding schools accountable for results and giving schools greater flexibility; creating small, more intimate schools or schools-within-schools; recruiting well-prepared teachers and providing them with continuing training and support; training principals to be effective school leaders; and promoting school choice. Your existing and planned initiatives -- including the new Education Opportunity Zones proposal that you previewed in December -- match up very well with these reform prescriptions.

12. Education -- Life-long Learning Card: You recently asked us about Bob Reich's idea of a life-long learning card -- essentially a bank card consolidating all federal education benefits (Pell, IRAs, education tax credits and deductions, and job-training funds), against which education expenses could be deducted. DPC and NEC staff have begun to look into this proposal, but we do not yet have a specific recommendation. The Education Department is currently intending to begin a pilot project by October 2000 to use bank cards to disburse federal aid to post-secondary students. Our instinct is that bank cards may be effective to deliver grants and loans, but less useful for tax credits and deductions. We will continue to explore this issue.

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THE WHITE HOUSE
WASHINGTON

December 12, 1997

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Health -- Mental Health Parity Regulation: The Wall Street Journal is expected to run a story Monday on how the Administration will implement the provision in last year's mental health parity legislation that exempts businesses from complying with the parity requirement if they can show that doing so would increase their costs by more than one percent. The story will report (accurately) that the Administration has decided to require businesses to comply with the parity requirement for at least six months prior to claiming an exemption. (As you recall, the other option under consideration would have allowed businesses to claim an exemption even before complying with the requirement, based solely on projections from current cost data.) The Administration is not issuing the regulation until the end of next week, but HHS sources leaked it to the Journal. The Journal will portray the regulation as a victory for mental health advocates over business.

2. Crime -- Homicide Study: The National Institute of Justice issued a study of homicide in eight U.S. cities last week. Some of the key findings of the ten-year study (1985-94) are: (1) the proportion of homicides committed with firearms increased throughout the ten-year period, to approximately 80 percent; (2) homicide rates were strongly linked to crack cocaine use throughout the period; (3) black men between the ages of 18 and 24 represented a disproportionately high -- and steadily increasing -- percentage of homicide victims in all cities (in Baltimore, these men were 24 times more likely than the average person to be the victim of homicide); (4) homicides where the victim and offender were related or intimate made up only 20 percent of all homicides, but over 50 percent of female-victim homicides; and (5) homicide rates were somewhat related to poverty and employment levels. The eight cities studied were: Atlanta, Washington DC, Detroit, Tampa, New Orleans, Richmond, Indianapolis, and Miami.

3. Crime -- Death Penalty Study: The Justice Department will release new data on Sunday showing an increase in prisoner executions. During the first 11 months of this year, 70 prisoners were executed in 16 states -- 25 more prisoners than in all of last year. Texas alone accounted for 36 of these executions, the highest number in a single state since 1930. In 1996, the length of time a prisoner sat on death row before execution was 10 years and 5 months -- 9 months shorter than in 1995. Among the 358 individuals executed between 1977 and 1996, 56 percent were white, 37 percent were black, 21 percent were Hispanic, and 3 percent were members of other racial groups.

✓ **4. Crime -- Boston Juvenile Homicide:** A Boston youth was shot to death last week, for the first time in two and one-half years. The 16 year-old Dorchester youth was unarmed and had no known criminal history.

5. Welfare Reform -- Reports Released by Union-Sponsored Group: On Wednesday, Jobs With Justice, a group funded primarily by AFSCME, SEIU, and the AFL-CIO, released two reports critical of welfare reform. The first, called Welfare Reform as we know it, is highly critical of workfare programs. Welfare recipients quoted in the report, which is largely anecdotal in nature, complain that workfare assignments are not paid as well as comparable work, do not lead to real jobs, and do not meet all required health and safety standards. We find some of the specific charges worrisome, but do not agree with the overall message of the report, which is that welfare recipients should not be required to work unless they are trained and placed in skilled, well-paid, and unionized jobs.

The second report, Welfare Reform: The Jobs Aren't There argues that there are about twice as many welfare recipients seeking work as there are low wage jobs. The report arrives at this conclusion by estimating that (1) 430,000 low-skilled jobs were created in 1997 and 270,000 will be created in 1998, and (2) one-third of all adults on welfare, or 1.2 million persons, will need to enter the labor force next year as a result of the 30 percent participation rate established by the welfare law.

* Our own economists and welfare experts dispute the report's conclusion, along with the estimates that underlie it. CEA notes generally that the U.S. economy historically has shown a tremendous capacity to absorb new workers -- e.g., the millions of women and baby boomers who joined the workforce during the last 30 years -- and should be able to do so again. More specifically, CEA believes that this study greatly underestimates the number of available low-skilled jobs because it counts only jobs in occupational categories with average incomes in the lowest 20 percent, omitting all low-skilled jobs in occupational categories with higher average incomes. At the same time, HHS staff believe that this study greatly overestimates the number of welfare recipients needing jobs because it fails to recognize (1) that some welfare recipients are already working and thus will not need "new" jobs, and (2) that states can (and almost all will) lower the required work participation rates through caseload reduction. HHS staff estimate that the work rates will require between 440,000 and 880,000 people to begin "work activities" in 1998, depending on the extent of caseload reduction. And even these people may not need "jobs" as defined by economic statistics because the law allows states to count community service, workfare, vocational education, high school (for teen parents), and some job search as work activities.

6. Welfare -- Food Stamps for Legal Immigrants: You asked about an article in this week's New York Times that describes the impact of food stamp cutoffs on legal immigrants in New York. The welfare law cut off food stamps to over 700,000 legal immigrants. Most of these cutoffs occurred in September. Under legislation we supported earlier this year, states have the option of using their own funds to continue food stamp benefits. Three states -- Washington, Nebraska, and Rhode Island -- have restored all benefits. Nine other states (including New York, New Jersey, and

California) have offered partial restorations. New York, for example, has made it a county option to restore benefits to the elderly and disabled.

We are currently considering whether to recommend that you include some restoration of food stamp benefits in your FY 99 budget. A full restoration of these benefits would cost about \$3.2 billion over five years. We also could propose a partial restoration that provides benefits to some subset of the legal immigrant population, such as children, families with children, or the elderly and disabled. We have doubts that Congress will entertain any proposal to restore benefits, but a more limited proposal might stand a greater chance of succeeding.

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THE PRESIDENT HAS SEEN
12-15-97

THE WHITE HOUSE

WASHINGTON

THE PRESIDENT HAS BEEN
12-8-97

December 6, 1997

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. **Budget and State of the Union:** Over the next few days, we will send you memos on proposed initiatives to include in your FY 99 budget and State of the Union. These initiatives involve education, child care, health, crime, welfare, housing, and civil rights enforcement.

2. **Health -- Pediatric Labeling:** You recently asked about a *New York Times* story on the Administration's pediatric labeling regulations. The *Times* reiterated the pharmaceutical industry's claims that clinical trials required under the regulation will expose children to inappropriate and potentially harmful doses of medication. These claims, however, are spurious. The testing requirement generally ensures that doctors will not endanger children by giving them inappropriate doses of medication. When the application of this requirement poses unacceptable health risks to children, the FDA Commissioner has the authority to waive it. The American Association of Pediatrics and other consumer advocates immediately responded to the *Times* article by emphasizing the ethical propriety of, and the medical need for, this regulation. The industry's true complaint is not with the regulation's ethics, but with its cost. Even here, however, the industry has no legitimate grievance: the FDA reform bill you recently signed contains a provision to give a company that has tested a drug for use on children the exclusive right to market that drug for six months.

3. **Health -- Medicaid AIDS Demonstration:** About six months ago, the Vice President asked HHS to consider the feasibility of a demonstration program that would provide Medicaid coverage to relatively healthy HIV-infected people, so that they could get the benefits of early drug treatment. After much study, HHS concluded that a program of this kind would cost a significant amount of money (\$8 billion over five years), thus violating the Administration's rule of budget neutrality for Medicaid demonstrations. We now have asked HCFA to develop a legislative proposal for a capped Medicaid demonstration to provide HIV-infected individuals with early access to drugs. The Vice President's request created high expectations among AIDS advocates, and they are demanding that the Administration make room for this program (in addition to increasing support for other AIDS treatment and research activities) in the FY 99 budget. We will give you an options memo on this issue later this week.

4. **Race -- Race and Service Link:** We are attaching a column by Steve Waldman of *U.S. News* arguing that service activities by people of diverse backgrounds, such as AmeriCorps' CityYear program, does more to foster racial understanding than dialogue or more traditional efforts

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to promote racial harmony. In keeping with this article, Harris Wofford has urged the race initiative to focus on common action by Americans of different backgrounds. In a recent note to us, you indicated that you would like to engage in service activity on Martin Luther King Day, in recognition both of Dr. King and the effort to make the holiday "a day on, not a day off." We are currently considering whether you should go to a literacy project connected to D.C. Reads, where AmeriCorps members, local work-study students, and senior volunteers help teach children from kindergarten to the third grade how to read.

Can we involve
Colin Powell too?

Could be more
clear - see
Waldman's suggestions

Sweating to the oldies

Toiling together will do as much for race relations as talking together

BY STEVEN WALDMAN

The topic was supposed to be race, but the conversation quickly turned to music. As alumni of the national service program City Year gathered at a conference in Boston, one panel of young people convened to discuss how their ethnic backgrounds had affected their experiences with the program.

More than one former team of workers described how, whenever they would arrive at a work site to do graffiti removal or housing renovation, conflict would arise over what music to play on the boom box. Black corps members (and some urban whites) would generally put on hip-hop or rap—music that some of the white suburbanites found annoying. When a white City Year participant would change it to heavy metal or grunge, the black corps members would be insulted. The daily decision of what music to play became a constant issue of “respect,” a proxy for whatever insecurities and anxieties each group had about working with the other.

One team of corps members hit upon a comical, yet poignant, compromise. Instead of listening to rap or grunge, they agreed to listen to oldies—a musical genre that no one there particularly liked but which no one felt threatened by. The key to the compromise, the alumni agreed, had been the mutual trust they’d gradually developed through working together toward common goals.

Colorblind huddle. Usually when critics recommend that racial dialogue be accompanied by action, they mean acts such as appointing more minorities to important positions or promoting affirmative action. But there is also a need for people of different races to work jointly toward goals that have nothing to do with race. The failure to recognize this reality is one reason President Clinton’s race initiative has been such a dud.

The same dynamic described by the City Year alumni is typical of team sports. Republican politician Jack Kemp, for example, has often talked about how his experience as a pro football quarterback made him more understanding of African-Americans. As John Mackey, a former football buddy of Kemp’s, explained, “The huddle is colorblind.” Whatever Kemp’s preconceived notions, he was far less concerned with the race of his offensive linemen than with their ability to keep him from get-

ting killed by an opposing linebacker. Similarly, although there’s no statistical proof, it sure seems that most interracial friendships in high schools are forged on sports teams.

The other widely cited example of black-white cooperation is the military—where, again, the goals toward which soldiers strive have nothing explicitly to do with racial harmony. Indeed, if the goal of the Army were race mixing instead of defending our shores, it might do neither job well.

By contrast, college students spend a great deal of time talking about racial issues—and yet it doesn’t seem to translate into better relations. A recent study by the Corporation for National Service on diversity in civilian service programs included this

telling passage: “A white female . . . commented that the college she had attended was very diverse but the students there ‘hung out in groups where everyone was the same.’ In contrast, at her AmeriCorps program, members truly served and socialized across racial, ethnic, and class lines.”

Why the contrast between college and national service? Primarily, it’s a question of individual goals versus group goals. While the college student’s grades reflect only on her, a service corps—like an army or a sports team—measures success collectively. (At the end of the day, are the graffiti gone, the hill taken, the other team defeated?) Few things force you to take an honest measure of people as much as having to rely on them to ac-

complish an objective. You don’t have the luxury of your prejudices. Young people in City Year didn’t learn that everyone worked hard or was pleasant company; they learned that there wasn’t a correlation between those qualities and race.

So how could Clinton improve his race initiative? Perhaps by no longer thinking of it as a race initiative. He should pick a goal largely unrelated to race and create opportunities for people of different backgrounds to work together toward that goal. The president could help organize a partnership between black churches and white churches to fight drug addiction, or between Hispanic high schools and non-Hispanic ones to renovate low-income housing. There would be a lot less time for talk and perhaps more time for progress. ■

Steven Waldman is national editor of U.S. News. In 1996, he worked as an official at the Corporation for National Service.



City Year corps members warm up before starting a project.

Racially loaded arguments about music sometimes erupted at the work site.