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Oct. 17, 1997 - DPC Weekly Report

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THE PRESIDENT HAS SEEN
10-20-97

THE WHITE HOUSE
WASHINGTON

1997 OCT 18 PM 6:47

October 17, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

What about the WH
memo on this by Mark...
I talked about it with...
What's the story
What?

1. Health -- Breast Cancer Event: You are scheduled to announce several new initiatives on breast cancer in your radio address next week. The most important is an FDA final rule establishing nationwide quality standards for mammography. The rule, which addresses accreditation, facilities, personnel, equipment, and performance standard alternatives, should receive praise from physicians, mammography facilities, and advocacy groups alike. You also will discuss a new education campaign at NIH to ensure that health care providers and women know about recommendations that women ages 40-49 have regular mammograms; new outreach efforts to encourage minority Medicare beneficiaries to get regular mammograms (see also item 4 below); reforms in the balanced budget providing copayments for mammograms; and the First Lady's annual mammography campaign. Finally, you will announce the release of several new PSAs on mammograms.

2.. Health -- Quality Commission Bill of Rights: The Quality Commission has finished a draft of the bill of rights that you requested it submit to you this fall. The draft includes a wide range of consumer protections, including access to specialists and emergency services, provisions for participation in treatment (e.g., anti-gag rules), and choice of health plans. At this point, the Commission will not recommend an enforcement mechanism for the bill of rights, which will help mitigate criticism from the business community. The Commission will meet to discuss the draft this week and plans to submit it to you by mid-November. Chris has leaked highlights of the draft to USA Today for publication on Monday or Tuesday, and we expect significant coverage in other papers.

3. Health -- Children's Coverage: DPC and HHS staff had an encouraging meeting with NGA representatives on outreach efforts for the new children's health care program. The states seem receptive to new ideas on working through schools and child care centers to identify uninsured children. State officials also have expressed great interest in a proposal we made to allow wider use of a \$500 million fund established by the welfare law to help ensure that children moving off the welfare rolls retain Medicaid coverage. Under this proposal, states could use the fund for outreach activities directed toward enrolling children in either Medicaid or the children's health program.

4. Race -- Vaccination Study and Health Care Proposal: The Center for Disease Control released a study on Thursday showing that vaccination levels for minority children have reached an

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all-time high and that the disparity in vaccination levels for white and minority children is at an all-time low. Dr. Satcher announced the study's findings, and we arranged for the Race Advisory Board to issue a statement. The new rates provide evidence that carefully constructed and targeted health care initiatives, supported by adequate resources, can help reduce some of the existing health disparities among racial and ethnic groups. We can use these kinds of statistics to prepare the way for a new health care proposal, currently being fine-tuned by DPC, HHS, and OMB, to address racial disparities in six carefully selected areas: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. This proposal will include nationwide measures on each of the six health conditions to go into effect in the next two years, as well as intensive five-year pilot projects in thirty communities focused on one or another of the six conditions (say, a project on diabetes on an Indian reservation or a project on AIDS in an inner city). The stated aim of the proposal will be to eliminate racial disparities in these six areas by 2010.

5. Race -- Higher Education Affirmative Action Suit: The conservative organization that successfully represented the plaintiffs in Hopwood filed suit in Federal district court this week alleging that the University of Michigan's admissions policies unconstitutionally discriminate against white students. A diversity plan called the Michigan Mandate has increased minority enrollment at the school from 12.7% in 1986 to just over 25% this year. The plaintiffs' complaint charges that in making admissions decisions, the University adhered strictly to a set of grids that specify different minimum grade point averages and standardized test scores for white and non-white applicants. University officials have responded that they used the grids only as one of many guidelines, rather than as a rigid barrier to admission. As you know, the DPC is preparing a proposal, which will be joined to the NEC's new version of the Chaka Fattah bill, that would promote minority access to higher education by supporting partnerships between universities and low-income intermediate and high schools. The DPC is also working with Sylvia and the communications people to highlight your commitment to diversity in higher education in a Race Initiative-related speech or town hall.

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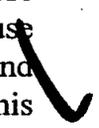
We are also attaching to this memo a list of other policies, prepared originally for Erskine and Sylvia, that the DPC is developing for possible announcement as part of the Race Initiative.

6. Tobacco -- Medicaid Reimbursement Letter: In recent testimony before the Senate Labor Committee, Secretary Shalala indicated that HHS would send letters to states that have settled with the tobacco industry demanding the federal government's normal share (usually around 50%) of state recoupment of Medicaid costs. Many states reacted negatively to the Secretary's comments, maintaining for a variety of reasons that the federal government has no rightful claim to most of the settlement monies. State officials (including Governor Chiles, who put in a call to Bruce) warned us that a letter of the kind Secretary Shalala promised would undermine the willingness of states to cooperate with us on anti-tobacco efforts. Attorneys at both the Justice Department and HHS, however, argue strenuously that failing to send this letter would indicate an intent not to enforce the law and might constitute a waiver of the federal government's claim to these monies. At a meeting with HHS and DOJ, the DPC recommended a compromise solution: sending a letter to all fifty states that simply notes the federal statute governing allocation of Medicaid reimbursements and

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then indicates our desire that future tobacco legislation provide for the distribution of funds between the federal and state governments in a mutually acceptable manner. HHS is now attempting to draft such a letter.

7. Drugs -- Needle Exchange: As you know, the House version of the Labor-HHS appropriations bill includes a rider eliminating Secretary Shalala's authority to permit the use of federal funds for needle exchange programs upon finding that these programs reduce HIV transmission and do not increase drug use. Recent reports suggest that House Republicans will refuse to drop this provision. At the same time, several members of your Advisory Council on AIDS have threatened to resign because Secretary Shalala has not used this authority. In light of these developments, we have developed a compromise proposal that would allow a community to use federal monies for needle exchange only if the Secretary, the community's chief health officer, and the community's chief law enforcement officer all made the requisite findings. We hope that this proposal can break the congressional logjam over needle exchange; we also think that, if enacted, it could make use of the Secretary's authority much easier.



8. Education -- National Testing Initiative: In response to comments made by Senator Lott's staff, DPC and the Education Department have developed some compromise proposals on the national testing initiative that we hope can help us gain Congressional support. These proposals, which we would offer one by one, would: (1) make it possible for states and school districts to link their own tests with the national standards and test, so that a state or school district could compare the performance of individual students to national standards without having to administer the national test; (2) treat 1999 as a "field test" and proceed with full implementation of the national test in 2000; (3) limit participation in the 1999 field test to 50% of all the 4th and 8th grade students in the nation; and (4) evaluate the field test and report the results to Congress before proceeding with full implementation (but not requiring congressional authorization). We hope to discuss these possibilities with Sen. Lott's staff early next week.

OK

9. Education -- Single-Sex Schools: As you recall, the Department of Education's Office of Civil Rights (OCR) has told New York City that it must either admit boys to its all-girls school or open a similar all-boys school to avoid violating Title IX. At a meeting last week, the Justice Department expressed the view that Title IX may be inapplicable to this situation, giving OCR no authority over this case. The Justice Department believes, however, that the all-girls school is vulnerable to constitutional challenge unless New York (1) demonstrates that the school compensates for past discrimination against girls in the city school system or (2) establishes a similar school for boys. In light of your request to be involved in this issue (and our own belief that OCR should let New York City operate this school), DPC and the Counsel's Office have asked Education and Justice to prepare a memo on the critical legal and factual questions.

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10. Education -- IDEA Regulations: The Department of Education will publish proposed regulations next week implementing recent legislation reauthorizing the Individuals with Disabilities Education Act (IDEA). Although the regulation attempts to strike a balance between the goals of parents and disability advocates and those of school districts, states, and teachers' unions, it probably

will please the former group more than the latter. Perhaps most notably, the regulation requires a hearing officer to hold a hearing with both sides present before he can use the authority, granted by the new law, to remove a misbehaving child from a classroom for up to 45 days. The regulation also reflects the Department's view that the new law requires states to provide services to youths with disabilities incarcerated in adult correctional facilities on penalty of losing all IDEA funds. Governor Wilson has contested this interpretation, insisting that he may decline to provide services to these youths but still remain eligible for IDEA funds. The Education Department has asked the Department of Justice to bring suit against Governor Wilson on this matter (DOJ has not yet determined whether it will do so), while the House Labor-HHS appropriations bill contains a rider supporting Wilson's position.

11. Child Care -- Conference Plans: DPC and the First Lady's Office are concluding work on this week's child care conference. We will give you a memo on Monday or Tuesday detailing the conference program and proposed policy announcements. This memo also will give you a sense of the work we are doing to prepare for a much larger policy announcement at the State of the Union.

12. Immigration -- Central American Legislation: Last week, the House Republicans unveiled a proposal to give amnesty to Nicaraguans in the country before December 1995; allow certain Guatemalans and Salvadorans to have their suspension of deportation claims heard under the relatively generous standard of the old immigration law; and essentially eliminate the unskilled workers category for legal immigrants. This proposal, like our own legislation, provides relief to Central Americans from the hardships imposed by the 1996 immigration law. The proposal, however, would go further than our proposed approach in granting complete amnesty to Nicaraguans. The Administration has never before supported amnesty, and none of the relevant agencies or White House offices believes that there is a strong substantive argument for doing so here. Further complicating matters, members of the Hispanic and Black Caucuses are now seeking to extend amnesty to other Central Americans and Haitians. And members of Congress who strongly oppose cuts to legal immigration may raise concerns about the elimination of the unskilled workers category. DPC is working with NSC, WH Legislative Affairs and INS/DOJ on a strategy for improving the Republican proposal.

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13. Immigration -- Rand Study: The Rand Corporation recently released a study assessing the impact of immigration on California over the past several decades. The study finds that immigration helped fuel California's rapid economic growth from 1960 to 1990, and continues to benefit the state's economy. But the study also details recent problems associated with the combination of a decreased demand for low-skill workers and a steady influx of low-skilled immigrants -- most notably, an increased fiscal burden resulting from use of public services and a downward pressure on some workers' wages. To address these concerns, the Rand study recommends: (1) a more flexible system to allow for more frequent changes to immigration quotas and entry criteria; (2) a reduction in annual immigration levels to somewhere between current levels (800,000) and those in the 1960s (300,000); (3) a greater emphasis on the educational levels of new immigrants; and (4) more proactive federal and state policies to integrate immigrants. Some of these recommendations resemble those in the U.S. Commission on Immigration Reform's final report,

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released last month. The Commission recommended lowering the level of legal immigration to about 550,000 annually, as well as promoting the further integration of immigrants through an "Americanization" proposal (including education, orientation, and naturalization efforts). The DPC will consider the Rand Study recommendations in the context of our evaluation of the Commission's proposals.

14. Immigration -- Requirements on Sponsors: Pursuant to the 1996 immigration law, the INS will release guidelines on Monday that require sponsors of certain immigrants to meet a minimum income threshold and to shoulder financial responsibility for those whom they have brought into this country. Under the law, as implemented by these guidelines, each sponsor will have to prepare a legally binding affidavit of support demonstrating an income level of at least 125% of the poverty level. During consideration of the immigration bill, the Administration supported making sponsors financially responsible for immigrants, while working to reduce the income requirement to the final 125% level (on the ground that a higher income requirement would have interfered unduly with legal immigration designed to unify families).

15. Welfare -- FICA Exemption for Workfare Participants: Rep. Shaw has decided to drop his legislative proposal to exempt workfare participants from FICA and FUTA. We supported this proposal, but Shaw apparently now thinks that it has no chance of passage given opposition from conservative Republicans (who believe it does too little) and liberal Democrats (who believe it does too much). The Governors are angry about the failure to act on this issue. The DPC is exploring whether there is a way to add the Shaw language to some piece of pending legislation. As for administrative action, the IRS continues (and continues and continues) to consider whether workfare is subject to or, alternatively, exempt from FICA and FUTA under current law.

16. Crime -- Child Safety Locks: October 15 was the deadline for federal agencies to comply with your March 1997 directive to provide child safety locks for all handguns issued to federal law enforcement officers. All agencies except the State Department have reported that they are in full compliance. We are following up with the State Department.

WCB

→ How can we
get the
State Dept
to decide under
the law

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Bowles