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THE WHITE HOUSE
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October 30, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

✓ 1. **Crime -- National Instant Criminal Background Check System:** The Justice Department will publish this week its final regulation implementing the Brady National Instant Criminal Background Check System (NICS or Instacheck). Under the NICS, which will go into effect on November 30th, the FBI and/or state points of contact will conduct computerized background checks of all prospective gun purchasers (not just handgun purchasers). Implementation of the NICS is a very significant accomplishment, capping your efforts first to enact the Brady Law, then to secure sufficient funds to improve state criminal history records, and most recently to thwart Republican attempts to undermine the efficacy of the Instacheck System.

✓ 2. **Drugs -- Medical Marijuana:** General McCaffrey held a press conference last week stating the Administration's opposition to five ballot initiatives allowing the medical use of marijuana; he also released a letter from former Presidents Carter, Ford, and Bush taking the identical position. McCaffrey argued that these initiatives send the wrong message to children about marijuana and conflict with the federal drug approval process. Current polls indicate that such initiatives will pass in Alaska, Oregon, Washington, and the District of Columbia; the vote is too close to call in Nevada. In addition, voters in Arizona probably will vote down an initiative that would repeal a broad medical marijuana law passed two years ago.

✓ 3. **Health Care -- Patients' Bill of Rights Event:** You are scheduled to lead a roundtable discussion with health care workers and patients on Monday that focuses on the need for a patients' bill of rights. We will downlink this event to patients' rights rallies led by Democratic candidates in congressional districts across the country. At the event, you will receive a status report from the Vice President outlining how the five federal agencies with primary jurisdiction over health care responded to your executive order directing them to ensure that their health plans come into compliance with the patients' bill of rights. This report will underscore that while the Republican leadership allowed patients' rights legislation to die, you took every possible action to implement these protections for the 85 million Americans in federal health plans. You will respond to the report by again calling on Congress to enact legislation to extend these rights to all Americans.

✓ **4. Health Care -- Pediatric Labeling Initiative:** We are pushing HHS and FDA to publish within the next two weeks a final regulation requiring manufacturers to test certain drugs for use in children and provide information to pediatricians on correct dosage levels. You announced the proposed regulation at an event with the First Lady last year, and pediatricians and advocates warmly applauded the action. (The American Academy of Pediatrics called it "one of the most important advances for pediatric drug therapy in several decades" and noted its special importance for treating children with AIDS.) Subsequent to your announcement, Congress included a provision in FDA reform legislation that provides short-term patent extensions to companies conducting these new pediatric tests. Although the legislation is fully consistent with our regulation (effectively providing some compensation to companies that must meet our regulatory requirement, as well as to companies that conduct pediatric tests voluntarily), the industry is arguing that Congress intended to negate our proposed rule and rely exclusively on incentives to promote voluntary testing. Because of this controversy, we decided to delay publication of the final rule until the Senate confirmed Jane Henney as FDA Commissioner. Now that the Senate has approved Dr. Henney, we and the First Lady's office want to move forward with the final regulation as soon as possible, perhaps even before Henney is sworn-in to her new position.

✓ **5. Welfare Reform -- New Jersey Family Cap Study:** New Jersey will release on Monday its latest evaluation of the State's family cap policy, which denies additional per-child benefits to welfare recipients who give birth while on the rolls. We understand that this report, prepared by Rutgers University researchers, will show a decrease in births and a small increase in abortions among families on welfare. Secretary Shalala sent you a memo about the draft Rutgers study in June, pointing out that both New Jersey and HHS had serious concerns about its methodology. The Department is still reviewing the latest study, but its preliminary appraisal is that the Rutgers researchers have failed to address many of these methodological questions; in particular, HHS is concerned that the study does not control sufficiently for other factors that could affect the rate of abortions. A total of 23 states have chosen to adopt a family cap policy since the passage of the welfare reform law, up from 15 states that implemented this policy through welfare waivers.