

**CORRESPONDENCE AND MEMOS
for the President**

Domestic Policy

**Bruce Reed
OEOB, Room 216**

THE WHITE HOUSE
WASHINGTON

April 14, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Needle Exchange Options

As we discussed last night, we have a couple of alternatives to Secretary Shalala's recommendation on needle exchange. You should try to make a decision on this issue before you leave for South America.

Under all these options, the government's top scientists would certify that needle exchange decreases HIV transmission and does not increase drug use. The central question is whether (and under what conditions) to release federal funds. The three possibilities are:

1. Release funds with HHS criteria (Shalala recommendation). Shalala recommended letting any community with a needle exchange program that meets specified criteria -- i.e., program cannot violate state paraphernalia laws, must refer participants to drug treatment, etc. -- exercise a local option to use federal AIDS prevention funds for that purpose. The HHS criteria would cut the number of eligible communities in half, because only 50-60 of the 110-120 programs nationwide operate legally. (Moreover, only six cities -- San Francisco, Los Angeles, New York, Chicago, Houston, and Philadelphia -- receive direct funding from CDC for HIV prevention. All other funds go to state health departments, so other cities would need the approval of the chief health official in the state.) Shalala and Sandy Thurman support this option because it will help the most communities. Most White House advisors oppose it because opening the door this wide will be easy for Congress to demagogue and quickly overturn.

2. Limit funds to areas where HIV transmission is at emergency levels. We could reduce the universe of needle exchange programs still further by only allowing a set number of communities with the most severe drug-related HIV problems to qualify -- for example, areas with 25-30% of total AIDS cases directly or indirectly related to injection drug use. (There probably aren't enough cases of infected babies born to drug addicts -- perhaps 500 a year nationwide -- to make that a separate criterion.) HHS estimates that only 10-15 programs (mostly in the largest cities) would meet these conditions in FY98. HHS could live with this option if the limitations only apply to FY98 funds. We could characterize it as a demonstration project and an emergency measure, not necessarily a moral endorsement of needle exchange. Some in the AIDS community believe this option is unethical, because it withholds a known

treatment from people in need. On the other hand, it might be easier to defend in the public arena and perhaps hold onto in Congress. This option would make it somewhat harder for Congressional leaders to force a tough vote for Democrats, although the far right might succeed in demanding a needle exchange ban anyway.

3. Withhold federal funds on the grounds that needle exchange is a local decision. The best way to prevent Congress from banning the use of federal funds is to take that issue off the table from the outset. Under this option, Shalala and government scientists would make a strong case for why communities with an HIV problem should consider needle exchange programs as a way to protect the public health. But we would make clear that because this is a contentious issue with nowhere near a national consensus, that decision and the money to pay for it must come at the local level. We would tell the AIDS community that this effort will do better over the long haul if we don't give Congress an opportunity to make political hay, and that the amount of federal money involved isn't worth the damage the right wing could do. Shalala, Thurman, and the AIDS community believe this option would make us look like cowards, because we'll never know whether we can win the Congressional battle unless we try. A number of White House advisors believe that battle is extraordinarily difficult to win in the short or long term, and this option is the only one that can withstand the Republicans' assault on the drug issue.

Obviously, there is no clear consensus on this issue. Shalala, Thurman, and others in the Administration closest to the AIDS community favor option 1 and could live with option 2, but oppose option 3. McCaffrey, Rahm, and others closest to the anti-drug community favor option 3 and oppose options 1 and 2. Most others in the White House oppose option 1 but could live with either option 2 or 3. If you believe we can hold onto a demonstration in Congress, you should probably go with option 2. If you believe Congress will ban this no matter what, needle exchange programs around the country would probably be better off if we went with option 3.

Erskine strongly recommends that you make up your mind before you leave tomorrow. The AIDS Council has another conference call tomorrow to decide whether to call for Shalala's resignation. No matter what you decide, it probably makes more sense to roll it out before Congress returns from recess.

THE WHITE HOUSE
WASHINGTON

June 20, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Sandra Thurman

SUBJECT: U.S. Conference of Mayors Needle Exchange Resolution

This memorandum will provide you a quick overview of the U.S. Conference of Mayors resolution on needle exchange programs, and the politics of this issue in Congress, public health community and AIDS advocacy groups.

Mayors Resolution The FY 1997 Appropriations bill maintains the prohibition on federal funding of needle exchange unless the Secretary of HHS determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs. Mayor Willie Brown of San Francisco is sponsoring a resolution at the Mayors meeting (see attached) calling on Secretary Shalala to exercise her waiver authority and permit state and local public health officials to use federal funds for needle exchange as one component of a comprehensive HIV prevention strategy.

Other mainstream public health and state government groups (Nation Governor's Association, Association of State and Territorial Health Officers, National Black Caucus of State Legislatures) support removing the federal funding restrictions in favor of state/local flexibility to design HIV prevention strategies that respond to the characteristics of the HIV epidemic in their jurisdiction.

Department of Health and Human Services HHS sent a report to Congress in February 1997 concluding these needle exchange programs can have an impact on bringing difficult to reach populations into systems of care that offer drug dependency services, mental health, medical and support services. These studies also indicate that needle exchange programs can be an effective component of a comprehensive strategy to prevent HIV and other blood borne infectious diseases in communities that choose to include them. The Department has not acted on the funding restrictions, but is internally moving towards a position that would allow grantees to use federal funds if certain conditions are met.

Office of National Drug Control Policy General McCaffrey remains skeptical that needle exchange programs will not increase drug use. He has stated, however, that he remains open to reviewing the scientific findings for that issue. In that vein, he plans on talking with representatives from NIH on this issue next week. It remains clear, though, that in the absence of

General McCaffrey, congressional support for the program would be impossible to obtain. (Even with his support, it will be extremely difficult to achieve congressional support for the authority to use federal funds for needle exchange programs.)

Congress Six Republican members of the House Labor/HHS Appropriations Subcommittee have indicated their intent to offer an amendment repealing the authority of Secretary Shalala to waive the prohibition on federal funding for needle exchange. The House mark-up is scheduled for the week of July 7. Subcommittee Chair Porter (R-IL) has high regard for NIH's scientific position, but clearly would need tangible support from HHS and the public health community to defeat such an amendment. On the Senate side, Sen. Specter chairs the L/HHS Subcommittee and he has come to generally support needle exchange programs-- Philadelphia has one of the largest. Both he and Sen. Harkin (ranking Member) would be inclined to leave the waiver language as is and avoid difficult votes on this issue. If HHS were to lift the ban, staff are not sure how the votes would fall.

Community The AIDS advocacy community is pushing vigorously to have the federal ban on needle exchange funding lifted. The community has recognized that a lot of political work needs to be done in Congress prior to removing the funding restrictions, so that a worse outcome is not realized with a flat ban on funding in lieu of the Secretary's waiver authority. Now that there's a clear sign that the House Subcommittee will consider an amendment for a flat ban, there is heightened interest in having HHS remove the funding restrictions and aggressively defend the science behind its action on the Hill.

To that end, some groups are trying to place press questions on needle exchange to you in conjunction with the USCM resolution on needle exchange.

Recommendation In the next month, we will give you an options memo that explores these issues in greater depth. You should not announce any new position at this time.

If you are asked about the issue in San Francisco, we recommend that you indicate support for local flexibility, and say that you have asked Secretary Shalala to review the science and make recommendations to you about how best to counter the dominant role intravenous drug use is playing in the transmission of HIV.

THE WHITE HOUSE
WASHINGTON

(LH) ~~Book?~~

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed, Assistant to the President for Domestic Policy
Sandra Thurman, Coordinator for National AIDS Policy

SUBJECT: International Studies on Reducing Maternal-Infant HIV Transmission

This memorandum will provide background on the controversy over an ongoing group of U.S.-supported international clinical trials studying options to reduce maternal transmission of HIV in developing countries. A brief overview of current knowledge, the rationale for further research, the World Health Organization position, concerns of domestic public interest groups, and the Department of Health and Human Services' position will be covered. Attached separately are talking points and Q&A's prepared by HHS on the issue.

Perinatal Transmission The World Health Organization (WHO) estimates over 1,000 HIV + infants are born each day. Women with HIV disease have a 15%-40% risk of transmitting HIV to their baby with each pregnancy. The National Institutes of Health demonstrated that this transmission risk can be lowered to 8.3% by the administration of the drug AZT to women orally during pregnancy and intravenously during labor, and to their newborn infants orally for 6 weeks. This NIH study, known as ACTG 076 - comparing AZT with a placebo - was halted and published in 1994 when these dramatic results were evident. It has become the standard of care to offer all HIV + pregnant women AZT therapy in the U.S.

An important unanswered research question is at what point during pregnancy or birth do women transmit HIV to their babies -- and if it is necessary to administer AZT over many months to prevent HIV infection in infants. Because many developing countries cannot afford expensive drug therapies for their citizens, pinpointing the critical period in which to administer AZT to prevent perinatal transmission is important so that the greatest number of women could be offered treatment.

Research Study Design Issues The public health leadership of several WHO member countries collaborated with the NIH and Centers for Disease Control and Prevention (CDC) to design and develop research studies to prevent perinatal HIV transmission in countries with limited health care infrastructure and resources. Each research study included an informed consent document outlining the research question, the randomization to an AZT or placebo group, and a detailed description of potential risks study participants may incur. All study protocols were reviewed and approved by the NIH and CDC Institutional Review Boards (IRBs) and the host countries. The political leadership of each host country were also fully informed of the study methodologies and concurred with their implementation. The first studies proposed by this international collaborative group began in 1993 with funding support from the U.S. (NIH, CDC) and France.

World Health Organization Activity In June 1994, the WHO hosted a meeting of researchers and public health practitioners from the U.S., Europe, and countries in Africa, Asia and the Caribbean which have a high incidence of HIV disease. The purpose of the meeting was to examine the results of the NIH ACTG 076 trial in terms of their applicability internationally. The following recommendations were issued from this meeting:

- 1) Encourage the use of AZT as outlined by the NIH ACTG 076 study in industrialized countries; and
- 2) Immediate exploration of alternative regimens that could be used to achieve prevention of perinatal HIV prevention in the developing world.

WHO participants established parameters for the conduct of research studies in developing countries. The studies supported by the U.S. and France were consistent with these parameters.

Concerns of Some U.S. Public Interest Groups Dr. Sidney Wolfe of the Public Citizen Health Research Group wrote a long critique of U.S. involvement and support for these international perinatal HIV prevention studies in a letter to Secretary Shalala. The letter was broadly distributed to the media. Key concerns raised were:

- o Some research designs include a placebo arm when AZT has proven benefit. Such a research design would never be allowed in the U.S.
- o The studies violate major international ethical guidelines, specifically: the World Medical Association's 1975 Declaration of Helsinki; four of the Nuremberg codes for human experimentation; and the International Ethical Guidelines for Biomedical Research Involving Human Subjects designed to address ethical issues in developing countries
- o There is no guarantee that women and infants in host countries will benefit from the research knowledge gained
- o The lack of appropriate care in host countries does not justify study designs with placebo arms that have no benefit. The standard of care in many countries does not include access to prenatal care, medications, hospital births or intravenous infusions
- o Comparison of these studies to the Tuskegee syphilis study; criticism that IRBs should ensure that risks to subjects are minimized and subjects are not unnecessarily exposed to risk; this is colonialism at its worst

Senator Carol Moseley-Braun (D-IL) has also voiced her concern regarding study designs with a placebo arm when there is a known effective treatment for HIV prevention. She is alarmed that such studies are supported with U.S. funds, and thinks it is inappropriate to continue such funding in face of the apology being offered to the Tuskegee survivors this Friday.

Department of Health and Human Services The Department of Health and Human Services has conducted a review of the U.S.-funded studies in question and continues to support both the study designs and public health importance of completing them. They are ongoing as of this date. HHS testified to this effect before the House Government Reform and Oversight Committee last week. There was very little discussion of the issue among Representatives present.

In brief, the HHS position maintains:

- o The studies address a pressing need in the global control of the spread of HIV, defining interventions that will result in reductions in maternal-infant transmission which can be safely and routinely implemented in the developing world;
- o The studies are based on the assumption that the NIH ACTG 076 regimen is not a feasible therapeutic intervention in developing countries due to lack of medical infrastructure and cost constraints; the research design examines options for treatment which are viable and affordable within the medical care delivery systems of the study countries
- o All ongoing studies are in full compliance with U.S. and in-country regulations and laws, have gone through extensive in-country and U.S. ethical review processes and an international ethical review, and all studies have strong in-country support; an independent Data and Safety Monitoring Board continues to provide oversight of research findings at regular intervals
- o Broadly accepted ethical principles for international research recognize a role for the local standard of care when testing the effectiveness of a new intervention. In the case of developing host countries, the local standard is minimal to no health care access. Studying new research options of AZT administration at specific times during pregnancy offers a new benefit to individuals who would not otherwise have had it, while defining research knowledge that may allow many individuals to benefit if shorter courses of AZT prove effective for HIV prevention. The placebo arm is equivalent to the local standard of care.

Attached are Q&As and talking points which support the HHS position on this issues.

THE WHITE HOUSE
WASHINGTON

QUESTIONS AND ANSWERS

Q. Did you know about the NIH supported clinical trials using AZT and placebos in HIV infected pregnant women in developing countries?

A. I am aware that NIH is funding some research into how to improve prevention of mother to infant transmission of HIV in some developing countries. I understand that AZT is the drug that is being used in these studies.

I have asked the Secretary of Health and Human Services to provide me with a report on these NIH studies. I also asked for an evaluation of how these studies will help the women and infants involved and how the studies are helping to curb maternal transmission of HIV in these countries.

Q. Some of the women in these studies are not receiving AZT, they are getting a placebo. How does this compare with the U.S. position that all HIV infected pregnant women and their infants should be offered AZT?

A. That question will be addressed in Secretary Shalala's report. Just let me say that in many developing countries no HIV treatment at all is available for pregnant women or their infants. It is totally different situation than what we have in this country where AZT is readily available.

Q. Some critics are saying that the NIH funded AZT studies in developing countries are not different from what happened in the Tuskegee study where treatment was withheld from some of the participants. How do you answer that?

A. Well, I will need to see the report from HHS before I can fully address that. But I must emphasize that in the Tuskegee study, treatment that was widely available in this country was deliberately withheld from some of the participants. In the AZT studies overseas, the only AZT treatment available is the treatment provided to participants in the study.

Q. Some critics are saying that there is an issue of violation of international ethical codes in the AZT studies. Is this true?

A. I will know more about the studies and the specific concerns surrounding it when I review Secretary Shalala's report. Until then, I can't say anything further on this. I can assure you that we will not support any studies where such violations occur.

QUESTIONS AND ANSWERS
MOTHER-INFANT TRANSMISSION OF HIV

Q. Why is the U.S. government supporting these studies around the world?

A. HHS has been criticized for conducting 9 studies in different parts of the developing world.

All nine were designed in cooperation with public health officials in the countries themselves.

All are aimed at finding ways to reduce mother-infant transmission of HIV in those specific countries. They were devised after completion of the AIDS Clinical Trial Group (ACTG) protocol 076 showed dramatic, positive results of an AZT treatment regimen in the U.S.

All nine were developed following a June 1994 WHO meeting in Geneva at which researchers and public health practitioners from around the world called for 1) use of the 076 regimen in the industrialized world where feasible and, 2) immediate exploration of alternative regimens that could be used in the developing world. They were designed in accord with guidelines developed at that meeting.

Q. Why can't the 076 regimen be used everywhere?

A. According to consensus among researchers and public health practitioners in all the cooperating countries, the 076 regimen is imply not feasible as a standard of prevention in much of the developing world. Let me explain:

- * The regimen requires that women be reached early in pregnancy and have blood drawn and tested for HIV. Once the woman knows she is positive for HIV she must take AZT three times daily for weeks, then receive AZT intravenously during labor and delivery. Once the baby is born the newborn must receive AZT in syrup for 6 weeks. In the developing world women are most often not seen in health care delivery systems before delivery.
- * Drug costs alone for the 076 AZT regimen are estimated to be \$800, an amount that is 80 times the annual health budget per person in many countries involved in these studies, and not available outside the research setting.
- * In addition, the 076 regimen simply cannot be assumed to work everywhere. The U.S. study looked at women with greater than 200 CD4 counts who were not breast feeding, while most of the women in host countries would breast feed their infants. In addition, the biology of the HIV virus itself (different strains) may be significantly different in other countries.

Q. Why do some of these studies use a placebo control arm? The Public Citizen groups says this is wrong.

A. The panel convened in Geneva recommended that since the 076 regimen is not applicable in the developing world, "placebo-controlled trials offer the best option for obtaining rapid and scientifically valid results."

They explained that in parts of the world where the 076 regimen is not applicable, the choice of a placebo for the control group in a trial would be appropriate as there is currently no available effective alternative for HIV-infected pregnant women in these countries. This is the quickest way to find appropriate interventions that can be used to benefit the people in these countries.

Although it has been argued that we could use a low dose of AZT in these studies, we believe that low dose AZT would not be an appropriate control because 1) it offers no known benefit to the individual (low dose AZT has not been prove useful anywhere) and 2) this type of study could fail to achieve useful results.

Q. Why is the placebo arm in some studies no intervention at all?

A. Unfortunately, the current standard of perinatal care in much of the developing world is no prevention intervention at all. That is a fact of life. Using this standard care as the placebo control in these studies will result in the most rapid, accurate, and reliable assessment of the value of the intervention being studied compared to the local standard of care.

Q. Are these studies ethically acceptable?

A. They are. The ethical dilemmas are complex and difficult. But the human subjects issues of these studies have been reviewed intensively since the 1994 Geneva meeting. These matters have been discussed in many formal meetings and at forums; reviews have been conducted in the U.S. and the countries where the clinical trials are being carried out (or where they will be carried out).

Q. Public Citizen says that it is unethical to conduct a trial unless it offers all participants a chance to receive an effective intervention if such is available anywhere in the world, not just at the site of the clinical trials. What is your response to that?

A. After thorough review, HHS, and WHO agree that to meet the standards of the World Medical Association Declaration of Helsinki, these studies must employ the best current diagnostic and therapeutic methods available in the country where they are to be performed. Holding other countries accountable to a standard of care unavailable

to its citizens and denying the opportunity for research advances that might benefit them raises another set of difficult ethical issues not addressed by advocacy groups.

Q. Are you going to have these studies re-reviewed or modified, as many have suggested?

A. No. The ethical review of these studies has been rigorous. It has included community and scientific participation in reviews by the relevant institutional review boards (IRBs) in the U.S. and the local IRBs in the countries where the trials are carried out. Support from local governments is obtained and review by an independent Data and Safety Monitoring Board is required when deemed appropriate.

Q. How are these studies any different than the Tuskegee study?

A. The fundamental difference is that the Tuskegee study withheld treatment of known benefit in a country where the treatment was widely available. The AZT trials are being conducted in certain developing countries where the standard of care for HIV+ pregnant women does not include treatment for HIV or any prevention options for perinatal transmission.

THE WHITE HOUSE

WASHINGTON

March 12, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed, Assistant to the President for Domestic Policy
Eric Goosby, Interim Director, ONAP

RE: Update on Status of Needle Exchange Programs

There have been a number of recent events involving needle exchange programs. On February 13, a National Institutes of Health Consensus Conference Statement recommended lifting the ban on use of federal funds for needle exchange programs. On February 18, HHS sent a Congressionally requested report to the Senate Appropriations Committee reviewing the scientific data on needle exchange programs to date. This memo provides background to put the issue in context, with a discussion of these recent events.

Current Statute. There are three statutory restrictions on the use of federal funds for needle exchange programs. (1) The Substance Abuse and Mental Health (SAMHSA) block grant prohibits use of federal funds for needle exchange unless the Surgeon General determines that they are effective in reducing the spread of HIV and the use of illegal drugs. The statute does permit federal research and evaluation of existing needle exchange programs. (2) The 1996 Ryan White CARE Act reauthorization places a flat prohibition on the use of Ryan White funds for needle exchange. (3) The Labor/HHS Appropriations bill prohibits funding of needle exchange unless the Secretary determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

Epidemiology of HIV Infection. Thirty six percent of AIDS cases are directly or indirectly caused by IV drug use. Up to fifty percent of new HIV infections may be related to IV drug use. The effects of IV drug use have become a driving force in the HIV epidemic.

Number of Needle Exchange Programs. There are over 100 needle exchange programs in the US, with most programs distributing through two or more sites. As of 1996, twenty-eight States had local needle exchange programs.

Federally Sponsored Research. The National Institute on Drug Abuse (NIDA) at NIH has funded 15 demonstration projects to evaluate the impact of needle exchange programs on rates of HIV infection and patterns of drug use (including the effectiveness of these programs as gateways to substance abuse treatment). Only two of the 15 studies are completed at this time. There has also been a significant amount of privately funded research on needle exchange programs through foundations and other nonprofit groups.

State and Local Government. At their recent winter meeting, the National Governors Association passed a resolution stating: "Federal restrictions or requirements on the use of available funding interfere with the ability of States to develop comprehensive prevention strategies." The Association of State and Territorial Health Officers (ASTHO) passed the following resolution in December 1995: "The federal government should repeal the ban on the use of federal funds for needle exchange services to allow interested States and localities the financial flexibility to support successful prevention and treatment initiatives within their jurisdictions." The US Conference of Mayors also supports lifting the ban on use of federal funds for needle exchange.

HHS Report to Senate Appropriations. Report language was included in the September 1996 Senate L/HHS Appropriations bill requesting that HHS provide a report on the status of current research projects, an itemization of previously funded research, and findings-to-date regarding the efficacy of needle exchange programs for reducing HIV transmission and not encouraging illegal drug use. The report prepared by HHS reviewed all published studies of US needle exchange programs, including one by the Institute of Medicine; it did not attempt to determine if the Congressional standard has been met for lifting the ban on federal funding. The summary section of the report contains the following: "Overall these studies indicate that needle exchange programs can have an impact on bringing difficult to reach populations into systems of care that offer drug dependency services, mental health, medical and support services. These studies also indicate that needle exchange programs can be an effective component of a comprehensive strategy to prevent HIV and other blood borne infectious diseases in communities that choose to include them."

NIH Consensus Conference. A NIH Consensus Development Conference on Interventions to Prevent HIV Risk Behaviors was held February 11-13, 1997. This conference was developed and directed by a non-Federal panel of experts, predating the Congressional request for an HHS report. The resulting Consensus Conference Statement is an independent report of an expert panel, not a policy statement of the NIH. This Statement, released on February 13, concluded that needle exchange programs are effective in reducing both HIV transmission and IV drug use and recommended lifting the legislative restrictions on needle exchange programs.

Analysis of Evidence on Needle Exchange Programs and IV Drug Use. The preponderance of data collected so far suggests a stable or declining level of drug use among needle exchange participants. About half of the studies on the effects of needle exchange show a decline in drug use. Two studies show an increase in drug use, but these studies have been discounted by expert panel as outliers. In addition, almost all studies indicate that needle exchange program participants tend to be older (median age 33 to 41 years old) and tend to be long-term users (duration of use 7 to 20 years). There is no data to suggest needle exchange programs increase new initiates into drug use, and the age of participants often increases over time.

It is important to note, however, that most studies have methodological weaknesses, inherent to the population and subject, that are nearly impossible to overcome. These methodological problems include: 1) reliance upon individuals' self-reporting of drug use; 2) the difficulties of creating a control group that does not receive clean needles yet continues participating in the

study; and 3) the difficulties of isolating the effects of needle exchange programs from the many other factors that may influence drug use in a given population.

The Administration's Response. HHS, ONDCP, and the White House jointly developed a response to questions about the HHS report and NIH Conference Statement. This response states that data on the effect of needle exchange programs in reducing HIV seroprevalence is solid, but that data on the effect of these programs on drug use patterns is less clear. The response further states that HHS will continue research efforts to evaluate new data on needle exchange programs and will work with the Congress on effective HIV prevention strategies. General McCaffrey strongly believes that the Administration should not challenge or raise questions about the current legislative restrictions on needle exchange programs.

Next Steps for HHS in Evaluating Effects on Drug Use. HHS will conduct a scientific review of the data presented at the NIH Consensus Conference. The data has not yet been through the peer review process required for publication and needs close examination. A second step will be an analysis of data already collected through the NIDA demonstration projects, which have not yet been specifically studied for effect on drug utilization patterns.

Congressional Climate and Community Expectations. The HHS report was released during the Congressional recess, and Hill reaction has been muted to date. Harold Varmus, Director of the NIH, received direct questions on needle exchange from Reps. Dickey (R-AR) and Wicker (R-MS) during an NIH Appropriations hearing. Secretary Shalala also received one question on lifting the federal funding ban prior to release of the report.

Both the House and Senate generally have punted the issue of needle exchange programs to HHS. The exception is last year's prohibition on use of Ryan White treatment funds for needle exchange programs, which passed unanimously. The Congressional response to any attempt to lift restrictions on funding likely would be hostile. The climate, however, may be softening somewhat. Senator Specter, Chair of the L/HHS Appropriations Subcommittee, has come to support needle exchange programs (Philadelphia has one of the largest); Rep. Rangel, once adamantly opposed to needle exchange programs, is reported to be shifting in his stance; and the state flexibility arguments advanced by NGA and ASTHO may also start to have an effect.

The AIDS community is united in seeking an end to the ban on federal funding of needle exchange programs. With some exceptions, however, the national AIDS organizations understand the downside of demanding that the ban be lifted before the necessary educational and political groundwork is laid. What the community wants from the Administration at this point is not so much an immediate lifting of the restrictions as a strong indication that the Administration generally will let science guide policy in combating HIV transmission.

THE WHITE HOUSE
WASHINGTON

Memo to
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(book)

January 31, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed, Assistant to the President for Domestic Policy *BR*
Patricia S. Fleming, Director, Office of National AIDS Policy *PSF*

SUBJECT: Follow up to the December meeting of the Presidential HIV/AIDS Advisory Council

We are pleased to transmit to you the most recent recommendations of the Presidential Advisory Council on HIV and AIDS following its meeting of December 15-17.

A copy of the Council's recommendations is attached. These recommendations, in summary, ask for the following:

- Continued leadership by the Administration for funding for AIDS research, prevention, treatment, and housing as well as protection of Medicare and Medicaid.
- Continued advocacy for funding for AIDS Drug Assistance Programs and HUD's Housing Opportunities for People with AIDS program.
- Greater focus by the Federal Bureau of Prisons on the needs and rights of federal prisoners living with HIV/AIDS.
- Greater support for AIDS treatment programs focused on Native American communities.
- Administration leadership in working with states and the private sector on reducing the cost of AIDS drugs.

The Council also approved a resolution commending you and the Office of National AIDS Policy for formulating the first-ever National AIDS Strategy, which you received from Patsy Fleming on December 17. The Council also sent a letter to Secretary Shalala urging her to support Federal funding for needle exchange programs to reduce the spread of HIV among intravenous drug users, their sexual partners, and their children.

The steps we will take in the coming months to address these concerns are as follows:

- Your fiscal 1998 budget includes across-the-board increases in funding for AIDS research, prevention, treatment, and housing. While these increases are smaller than in previous years, they are significant in the context of your balanced budget proposal.

- Your budget maintains the Federal guarantee of Medicare and Medicaid coverage for people with disabilities including people living with HIV/AIDS. However, the proposed per capita cap concerns many AIDS advocates because of its potential to reduce benefits to costly patients.
- The Federal Bureau of Prisons and the Department of Defense are working on addressing the inclusion of HIV/AIDS issues in all services of the Federal Bureau of prisons and Department of Defense prisons and brigades (including D.C. jails).
- The Office of National AIDS Policy is convening a roundtable discussion of AIDS issues related to the Native American community on February 11.
- The Department of Health and Human Services is working with the states and others to find ways to reduce the cost of AIDS drugs to government programs.
- The Department of Health and Human Services will report to Congress on or about February 15 on Federally-sponsored research into the effectiveness of needle exchange programs to reduce HIV transmission without encouraging use of illegal drugs.

Presidential Advisory Council on HIV/AIDS
Fifth Full Council Meeting
December 15 - 17, 1996

REPORT FOUR

RECOMMENDATIONS

•National AIDS Strategy Resolution

The Council commends the President and the Office of National AIDS Policy for demonstrating leadership in developing the Federal Government's first national comprehensive strategy for dealing with the HIV/AIDS epidemic. While there are clearly significant issues regarding the epidemic which still must be addressed, the National AIDS Strategy provides a foundation for the Federal Government's response to HIV/AIDS in the year ahead. Specific implementation tactics and strategies must be developed.

The Council believes that in order to have any realistic chance of achieving the President's stated goals of finding a cure, developing a vaccine, and reducing annual new infections to zero, other important issues such as how to decrease infections among intravenous drug users must be addressed more comprehensively.

The Council intends to continue to ensure that all crucial issues are dealt with and to ensure that the actions of relevant Federal Agencies are consistent with the National AIDS Strategy and with the recommendations of this Council.

IV.A. Leadership Recommendation

Background

During the debate over the FY1997 budget, President Clinton exercised leadership critical to the lives of people living with HIV and at risk for HIV by protecting Medicaid and Medicare, holding out for increases in funding for research, prevention and care, and by seeking budget amendments for the AIDS Drug Assistance Program and HOPWA as the need for increased funding became apparent.

The FY 1998 budget debate will require the same level of leadership from the President and his Administration. Our nation faces the continuing challenge of assuring access to new and promising treatments for HIV, the opportunity that new avenues of treatment and vaccine research offer, the need to expand prevention efforts to more Americans at risk, and the need to assure that people with HIV have housing that addresses their needs.

Recommendation IV.A.1.

That in his FY 1998 budget request, the President continue to protect Medicaid and Medicare, and seek increases in funding for research, prevention, care and services — including the Ryan White Care Act and HOPWA. In particular, because of the availability of new drug therapies, ADAP funding must be increased, and not in competition with funding for the care system. Increased funding will be essential until new financing systems can be developed among private and public health payers to cover the cost of the new therapies.

In the international arena, the President should seek increases in funding for USAID programs relating to the global epidemic.

Recommendation IV.A.2.

That the Vice-President continue the dialogue which he has established with the major manufacturers of HIV/AIDS drugs and that the issue of international provision of basic medications for the prevention and treatment of opportunistic infections and other HIV/AIDS associated medical conditions be added to their agenda.

IV.B. AIDS/Prison Issues

Background

Citizens incarcerated in the United States prisons system have a constitutional right to quality health care appropriated social services, and humane living conditions.

This issue was first addressed in the 1991 NCOA report in the Federal Bureau of Prisons. In 1995 the ONAP revisited this issue so that the needs of the HIV-infected prison population were not neglected.

“HIV infected prisoners who are not provided adequate medical care while incarcerated become sicker and can impose an unnecessary burden on the health care delivery system upon release. Moreover, without proper prevention education, prisoners and formerly incarcerated persons will continue to engage in risky behavior and thereby increase the possibility of new transmissions. People of Color have been particularly hard hit by the expanding HIV/AIDS epidemic and they also experience high rates of incarceration.¹

“For prisoners with HIV/AIDS locked away in federal, state, and local prisons and jails, a short prison term can become a death sentence because of lack of medical care, little

¹ 1996, Policy Statement, NORA Working Group on Incarcerated Populations.

psychosocial support, discrimination, stigmatization, and harassment from both corrections staff and other prisoners. Studies have shown that prisoners with HIV/AIDS live half as long as similar IDU populations on the outside. Women prisoners with HIV/AIDS are the fastest growing and most medically underserved prison population. Compassionate release or medical parole is out of reach for most prisoners with full-blown AIDS (and other life threatening illnesses).²

Historically, prison infirmaries have not been equipped to deal with the specialized needs of inmates with HIV/AIDS and infections associated with HIV disease such as multiple-drug-resistant tuberculosis. In an effort to address these concerns, we recommend the following:

Recommendation IV.B.1.

The Council requests a comprehensive and specific report be from the Federal Bureau of Prisons, and the Department of Defense, within 90 days, addressing the inclusion of HIV/AIDS issues in all services of the Federal Bureau of Prisons and DoD prisons and brigades (including D. C. Jails). This should minimally include the following:

- a. Content and frequency of prison staff educational efforts paying particular attention to issues of; women at-risk for HIV, substance use, prevention, and the medical management of HIV disease.
- b. Accessibility of all FDA approved HIV/AIDS therapeutic modalities for prison inmates with HIV/AIDS, and numbers of prisoners availing themselves of these therapies.
- c. Availability of mainstream clinical drug trials for prison inmates, the nature of any access barriers -- and means to remove such barriers, and numbers, sites and principal investigators of these programs.
- d. The status of quality assurance criteria and certifications, (including nondiscrimination guidelines) with a demonstrable high level of compassionate care available for the ill and dying.
- e. Description of case management for prison inmates with HIV/AIDS.
- f. Availability of voluntary peer education opportunities for HIV+ inmates. (Please include curriculum participation, site, and frequency statistics.)
- g. Accessibility of condoms and barrier protection against HIV transmission to prison

² 1996, HIV/AIDS in Prison Project, Catholic Charities, Judy Greenspan, author.

inmates.

- h. Specific details concerning the availability of ongoing (at least every 6 months) educational programs for incarcerated individuals regarding all aspects of HIV, including substance abuse issues and sexuality.
- I. Definition of the limits of jurisdiction which differentiate the authority of the federal government in all correctional facilities; District of Columbia, military, federal, state, and local correctional institutions, including federal funding streams.
- j. The scope of implementation of the seven major recommendations of the National Commission on AIDS (March, 1991).

Recommendation IV.B.2.

The Administration should direct the Secretary of Health and Human Services to develop oversight language appropriate for discharge planning (including accessing benefits) for ex-offenders with HIV/AIDS designed to assure their continuity of care through Probation Departments in various locales as well as the accessibility of appropriate linkages within the community.

IV.C. AIDS/Native American Issues

Background

During 1994 - 1995, extensive efforts were made in the public and private sector to insure and preserve HRSA assistance to special populations. Under the reauthorization, it appears to be discretionary for the Secretary to determine allocations to specific communities and projects.

Recommendation IV.C.1.

Therefore, the Council requests that the President instruct the Secretary of Health and Human Services to reassess the legislative intent of the reauthorized Ryan White CARE Act regarding needs of the Native American community to insure appropriate support for Native American care, infrastructure development, and coordination *on a national level*.

Background

Agreements ensuring the fulfillment of Native American health care needs are part of the traditional government-tribal relationship. In the instance of alcohol and substance abuse programs, IHS was instructed to develop memorandums of agreement with tribal

governments and the BIA to ensure that these three entities work together to reduce the effects of addiction in tribal communities. Memorandums of agreement include a specific tribal plan describing needs, availability of services, and prevention efforts. Similar memorandums are needed in dealing with HIV/AIDS. Local tribes have need to have ownership of direct client services for HIV case management on their Reservations; Native Case Management Programs need a commitment from IHS that they will work cooperatively with these programs, which are located on and off Reservations.

Recommendation IV.C.2.

Therefore, the Council requests that the Secretary of Health and Human Services instruct the Director of Indian Health Services to demonstrate within ninety-days the adequacy of *HIV* prevention, care, and treatment including access to needed drugs, for American Indians and Alaska Natives living on or near reservations. This should include documentation of needs assessments completed, barriers, and gaps identified and proposed solutions. It should also include a discussion of how IHS plans to work with the private non-profit sector to improve AIDS-related services.

Background

Programs providing Case Management Services to Native Americans need to ensure that the services are culturally relevant for this population. Criteria to evaluate the cultural relevancy of services may include such things as: Native Americans seated on the governing or policy-making body, insuring that 50% of the staff are native Americans, insuring that traditional tribal healing services are available onsite by referral. IHS needs to commit to complying with the *Buy Indian Act* for training IHS personnel in HIV/AIDS Case Management Services.

Recommendation IV.C.3.

Therefore, the Council requests that the Secretary of Health and Human Services instruct the Director of IHS to develop Case Management oversight guidelines which are appropriately oriented to the specific needs of Native American people with HIV/AIDS and assure the provision of health care and in a safe and culturally appropriate manner.

IV.D. AIDS/Service Issues

Recommendation IV.D.1

That the Administration take leadership in working with the states and the private sector to reduce the cost of pharmaceuticals to ADAP and Medicaid programs.

Recommendation IV.D.2

That the federal government working with the states expeditiously finance, and evaluate new demonstration projects that 1) enable funds to be used for very early access to HIV care services, and 2) assess the resulting impact on health status, life expectancy, client return to work and earned income, and net health care costs (new expenditures offset by lowered costs), on a lifetime and annual cost-of-care basis. These demonstrations should be financed with new funds, so as not to diminish access to care and treatment under current funding.

Recommendation IV.D.3

That the Office of National AIDS Policy create a mechanism for the public sector, the private sector, and the community to engage in a formal, facilitated dialogue process on how to set priorities for HIV care and services that assures the best use of resources and recognizes a context of shifting demands for services. This dialogue should be completed within six to eight months.

Recommendation IV.D.4

That the Office of National AIDS Policy work with the Secretary of HHS and the Secretary of Labor, the co-chairs of the Advisory Council on Consumer Protection and Quality in Health, to assure inclusion of the concerns of people living with HIV and their recommendations.

File:
① Campaign Finance Reform
② P. has been

THE PRESIDENT HAS SEEN

12-14-96

December 13, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN HILLEY
BRUCE REED
PETER JACOBY
JIM WEBER

96 DEC 13 PM 5:51

SUBJECT: CAMPAIGN FINANCE REFORM

Main thing is to
prevent something from
day one
Bk

As part of a strategy to make campaign finance reform a reality, we have met with key Democratic Members of Congress, labor representatives, party representatives and a core negotiating group from the outside reformers during the past several weeks.

From these meetings it has become clear that seven key issues must be addressed before a Congressional and reform group consensus can be reached on legislation that we could recommend for your support. These issues include: 1) limiting party independent expenditures; 2) curbing spending on issue advocacy; 3) banning "soft" money; 4) contribution limits for individual PACs; 5) in-state and in-district fundraising proposals; 6) proposals to codify the Supreme Court's decision in Communications Workers of America v. Beck, and; 7) restrictions on campaign contributions by non-citizens. In preparation for a meeting with you early next week, please find below the background information on these key issues and a brief summary of our progress toward the resolution of each.

Limiting Party Independent Expenditures

Two issues have emerged as key to successfully passing campaign finance reform. The first is limiting the ability of state and national parties to make independent expenditures on behalf of their candidates for federal office. The second, discussed below, is limiting the ability of parties and outside groups to impact federal races through issue advocacy activities. Both issues are central to a fundamental concern for all Members of Congress -- the inability to accurately predict, and effectively respond to campaign spending by forces other than the political opponent. Without a way to limit, or at least anticipate, the amount of spending by outside groups and the opponent's party, Members are reluctant to adopt a spending limits regime (such as would be imposed by McCain-Feingold) that curbs their ability to respond to such spending.

This past June in Colorado Republican Federal Campaign Committee v. Federal Election Commission, the Supreme Court held that political parties may make independent expenditures on behalf of their candidates as long as those expenditures are not made in coordination with the candidate. The decision overturned an FEC rule which had held that party activities by their nature were coordinated with candidates and therefore could be constitutionally limited under the Federal Election Campaign Act (FECA). The fallout from this ruling was felt almost

immediately during the November elections. In several key races the Republican Senatorial Campaign Committee made large independent expenditures which greatly exceeded the contribution limits that would have been applicable if the FEC's coordinated expenditures standard had remained in place. Additionally, because these were independent expenditures under FECA they could expressly advocate the election or defeat of a clearly identifiable candidate. Finally, because FECA requires that independent expenditures be made with "hard" money (i.e. money raised and disclosed under FECA's contribution limits for individuals, PACs and parties) Democratic party officials were unable to respond in kind given the party's relative "hard" money disadvantage.

Consequently one goal of reform legislation, shared by the FEC, reformers and Democrats alike, is to broaden the definition of party coordination to limit the ability of parties to undertake independent expenditures. Any effort to broaden the definition will be difficult, however, because it must necessarily address the constitutional hurdles in the Colorado decision, which require the FEC to establish actual coordination, rather than a presumption of coordination, when parties act to impact Congressional races. Legislative language to achieve this goal is currently being drafted.

Curbing Issues Advocacy Spending

As noted, Members of Congress, on both sides of the aisle, have become concerned about the impact of spending by third parties on their races. This concern is especially acute with respect to issue advocacy spending. In Buckley v. Valeo, the Supreme Court's 1976 landmark campaign finance decision, the Court held that the only independent expenditures that could be disclosed and regulated under FECA were those used for communications that "expressly advocate the election or defeat of a clearly identified candidate." (This definition has since been codified in FECA) In a footnote in Buckley the Court gave examples of words of express advocacy, including "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat" and "reject." The Court created this narrow definition to draw a clear distinction between "issue discussion" or issue advocacy which has strong First Amendment protections, and the candidate-oriented speech which is the focus of campaign finance laws.

Since 1976, Federal courts have generally held that unless the magic Buckley words are used in a political advertisement or activity, that activity is issue advocacy and therefore cannot be regulated under FECA. Consequently independent groups such as labor unions, the NRA, the Moral Majority, the Christian Coalition and others may use unlimited contributions from wealthy individuals, corporate treasuries or dues-paying members to fund issue advocacy campaigns during an election cycle. Perhaps the most publicized campaign of this nature was the \$35 million media campaign by the AFL-CIO earlier this year to highlight the anti-family positions taken by Congressional Republicans. None of the union ads expressly advocated the election or defeat of these Members and were therefore issue ads outside the scope of FECA. Additionally, national and state party organizations may also run issue advocacy campaigns paid for by "soft" money contributions which, as discussed in more detail below, are

by definition unlimited contributions from corporations, unions or individuals.

Reformers, Congressional Democrats, the FEC and reform-minded Republicans have all indicated a desire to expand the definition of express advocacy to include both the magic words test and a new test that would include campaign activities that, when taken as a whole, could only be interpreted by a reasonable person as advocating the election or defeat of a clearly identified candidate. This would have the effect of bringing a broader range of issue advocacy activities under FECA, thereby limiting the impact of unlimited donations on elections. There is little question, however, that current constitutional jurisprudence favors a narrow definition of express advocacy and it will be a challenge to craft legislative language that expands the definition in a constitutionally defensible manner. We, along with the Office of Legal Counsel at the Department of Justice, are currently reviewing legislative language that purports to achieve this goal.

Banning "Soft" Money

Every credible campaign finance reform initiative during the past several Congresses has contained provisions to ban "soft" money. Soft money is a term used for funds that are raised by state and national parties for party building activities, GOTV efforts, state elections and voter registration drives. Because soft money cannot be spent to directly benefit a federal candidate, it is unregulated by FECA and therefore is not subject to the Act's contribution limits or disclosure requirements. This allows parties to raise soft money in unlimited amounts directly from unions, corporate treasuries and wealthy individuals. Past reform efforts have generally sought to ban national parties from raising and spending soft money while strictly limiting state soft money spending to activities that would not influence a federal campaign.

Events during the November elections have renewed the interest of reformers in banning soft money while causing Democratic party leaders to rethink their past support of ban initiatives. The reformers' renewed zeal stems from the unprecedented levels of soft money raised and spent during this past cycle. Party leaders, however, argue that soft money, which was used extensively by the party to fund issue advocacy campaigns in competitive races, helped Democrats win in many races. Consequently, a resolution of this issue will hinge on an acceptable compromise which provides parties with some sort of new benefit, such as free television time or reduced mailing costs, to offset the loss of soft money resources.

We are currently reviewing legislative language banning soft money and have asked the Democratic leadership for their input on potential offsetting benefits.

Contribution Limits for Individual PACs

Campaign finance reform efforts in the past, including last year's McCain-Feingold bipartisan campaign finance reform bill, have generally proposed to eliminate all PACs from

federal election campaigns. It appears, however, that Senators McCain and Feingold will concede that a PAC ban is unconstitutional and delete the ban from their reform proposal in the new Congress. Instead, the Senators' new proposal, which should be introduced on the first day of the new session, will likely lower the contribution limits for individual PACs giving to a federal candidate from the current \$5,000 per election (\$10,000 per cycle) to \$1,000 per election (\$2,000 per cycle).

Deletion of the PAC ban is favored by both Congressional Democrats and Republicans. However, in the House, where Members raise a high percentage of their contributions from PACs, House Democrats and Republicans will likely oppose the new \$1,000 contribution limit and insist on a significantly higher limit. The House Democratic leadership bill during the last Congress included a \$4,000 per election (\$8,000 per cycle) limit while the House Republican leadership bill lowered the current level to \$2,500 per year. Early indications from House Democrats are that they may accept a \$6,000 per cycle limit, if a contributing PAC is allowed to give up to \$5,000 in a primary election. In the Senate, individual PAC limits have been less controversial since many Senators raise the bulk of their contributions from individuals.

The outside reform groups may accept the deletion of the PAC ban from the McCain-Feingold legislation. It is unclear whether they will endorse a PAC limit higher than the \$1,000 per election level being contemplated by Senators McCain and Feingold. Because we believe that House passage of any campaign finance reform bill will hinge on preserving a substantial portion of the current individual PAC contribution level, we have urged the outside groups to support and ultimately persuade Senators McCain and Feingold to raise their proposed contribution limit.

In the past, you have endorsed legislation banning PACs. If the McCain-Feingold legislation does not contain a ban, it is our recommendation that you endorse a reduction in the current \$5,000 per election contribution level for individual PACs. We are researching the impact of each likely reduction to determine exactly what the new limit should be.

In-State and In-District Fundraising

The McCain-Feingold reform legislation from last Congress required a candidate to raise sixty percent of campaign funds in-state to qualify for the legislation's benefits, such as free television time. The measure also contained, however, a provision for small states which would allow the sixty percent threshold to be met by showing that sixty percent of a candidate's campaign *contributors* resided in-state. While McCain-Feingold applied the in-state provision exclusively to Senate races, House Democrats greatly fear any reform that would require them to raise a majority of their funds either in-state or in-district. For their part, the outside reform groups do not place either in-state or in-district requirements high on their agenda. Consequently, we have asked House Democrats to consider whether an in-state requirement that can be met by showing that either sixty percent of contributions were raised in-state or sixty percent of contributors resided in-state would be acceptable.

Codifying the Supreme Court's Beck Decision

In 1988 the Supreme Court decided a landmark labor law case involving the rights of individual employees to limit a union's use of membership fees and dues. In Communication Workers of America v. Beck the Court held that a union may not, over the objections of *dues-paying nonmember employees*, expend funds collected from them on activities unrelated to collective bargaining activities. As a result of this decision, dues-paying nonmembers may demand a pro-rated return of union dues and fees earmarked for political activity.

Since 1988, Congressional Republicans have pursued efforts to codify the Beck decision. In doing so, however, Republicans have proposed extremely broad interpretations of the Supreme Court's decision, effectively seeking to gut organized labor's participation in the national electoral debate and disable internal union to member communications. The AFL-CIO and its affiliates oppose "codification" of Beck. Congressional Democrats seem, ironically, less energized. Many Hill Democrats appear willing to consider enacting a narrow codification.

Republicans are certain to press Beck issues in the upcoming congressional debate on campaign reform. While Senate Democrats may well filibuster unreasonable Beck provisions, the possibility exists that Republicans may be able to force through unacceptable Beck provisions which they would trumpet as "reform." Such a scenario could result in the choice of either signing a distinctly anti-labor bill or risk being attacked as opposed to reform.

As a result, we may consider whether to pre-empt the Republicans on Beck by including a narrow "codification" as a part of bipartisan reform legislation.

Prohibiting Non-Citizens from Contributing to Federal Campaigns

During the closing weeks of the campaign you publicly stated your support for banning federal campaign contributions from those who cannot vote. Banning non-citizen individuals from federal campaign giving is relatively easy to implement and it has widespread support on both sides of the Hill and on both sides of the aisle. A more difficult question, both from a political perspective and as an implementation issue, is whether such a ban should apply to corporate PAC donations by the U.S. subsidiaries of foreign corporations.

Such a ban will be strongly opposed by companies with U.S. subsidiaries who will fear a diminution in their ability to petition the federal government. Additionally, determining which company is beneficially owned by a foreign interest could prove difficult as a matter of law and enforcement. We are currently reviewing legislative language which purports to ban federal campaign contributions from both individuals and all foreign-owned entities.

cc: Vice President Gore
Leon Panetta
Erskine Bowles
Harold Ickes
Jack Quinn

THE WHITE HOUSE

WASHINGTON

November 11, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: **Background On Campaign Finance Reform For Meeting With Congressional Leadership**

On Tuesday, November 12, you will be meeting with Congressional Leadership to discuss the legislative agenda for the next term. During your meeting with the Leadership, you should reaffirm your strong support for the bipartisan campaign finance reform bill introduced last Congress by Senators McCain and Feingold. You should emphasize your commitment to seeing McCain-Feingold become law this year and ask that Congress consider the bill as soon as possible.

It is likely that the Republican Leadership will resist quick action on McCain-Feingold and try to shift the focus of the discussion to the question of limiting the use of union dues for political purposes and to the issue of eliminating voluntary spending limits in the bill. On the Democratic side, Senate Minority Leader Daschle supported McCain-Feingold last Congress while House Minority Leader Gephardt supported a Democratic sponsored bill similar to the one you pushed for in the 103rd Congress.

During your first four years in office you have pursued a strong, wide-ranging political reform agenda. You imposed the toughest ethics code on your political appointees, closed the tax provision that allowed corporations to deduct the cost of lobbying expenses, signed the Motor Voter law, and cut the White House staff by 25 percent. Last year, you signed two major reform bills that you had promised to enact when you ran for office in 1992. The Congressional Accountability Act which requires Members of Congress to live by the laws of the land and the Lobbying Disclosure Act.

McCain-Feingold includes many of the campaign finance reform ideas that you first championed in *Putting People First*. These include:

- **Spending Limits and Benefits:** Campaign spending limits would be based on each State's voting-age population.
- **Free Broadcast Time:** Candidates would be entitled to 30 minutes of free broadcast time.

- **Broadcast Discount:** Broadcasters would be required to sell advertising to a complying candidate at 50 percent of the lowest unit rate.
- **Reduced Postage Rate:** Candidates would be able to send up to two pieces of mail to each voting-age resident at the lowest 3rd class non-profit bulk rate.
- **New Variable Contribution Rate:** If a candidate's opponent does not abide by the spending limits or exceeds the limits, the complying candidate's individual contribution limit is raised from \$1,000 to \$2,000 and the complying candidate's spending ceiling is raised by 20 percent.
- **Political Action Committees (PAC) Ban:** The bill would ban PAC contributions to candidates. However, if the PAC ban is ruled unconstitutional, then the PAC contribution would be lowered to \$1,000.
- **Franked Mailings:** Franked mailings are banned in a campaign year.
- **Personal Funds:** Complying candidates cannot spend more than \$250,000 from their personal funds.
- **Bundling:** The bundling of campaign contributions is banned.

THE WHITE HOUSE

WASHINGTON

October 30, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: MICHAEL WALDMAN
BRUCE REED

SUBJECT: CAMPAIGN FINANCE REFORM

At your request, here is a memorandum outlining the issues and arguments involving campaign finance reform.

Why reform is needed

It is clear that, this year, the existing system of campaign finance rules and limits has been overwhelmed by a flood of private money.

- Spending on congressional races has roughly quadrupled in the past 15 years. Incumbents are now forced to spend an inordinate amount of time fundraising. Most contributions come from lobbyists and PACs. The arguments for congressional campaign finance reform are well known and well rehearsed.
- This year, public attention has suddenly and dramatically focused on the fastest growing phenomenon – soft money. It has been estimated by the press that each party will raise at least \$100 million in soft money. Critics argue that soft money entirely negates the rules established following the Watergate scandal in 1974. In theory, they assert, a contribution to a federal candidate is limited to \$1000, but in fact individuals give hundreds of thousands of dollars. In theory, they assert, contributions to candidates directly from corporations have been illegal since 1904; in fact, through soft money they occur all the time.
- Independent expenditures are taking on a greater role this year, too. The AFL-CIO's \$35 million, countered by independent spending by business and Christian groups, is entirely outside the limits imposed by campaign spending laws.
- A recent Supreme Court decision struck down existing limits on what political parties could spend to benefit candidates.

Your proposals

In the 1992 campaign, you proposed reform that is markedly similar to the current McCain-Feingold bill. In *Putting People First*, you proposed:

- spending limits;
- free TV time;
- PAC limits (PAC contributions reduced to \$1000);
- and a ban on soft money.

On election night and in the days after, you said that campaign reform would be one of your top priorities. In 1993-94, you proposed a plan, along with the congressional Democratic leadership, that included these elements as well as partial public funding for congressional candidates. (In a compromise with congressional Democrats, it also allowed larger PAC contributions.) This legislation passed both chambers, but the conference committee did not meet for a year. In the last week of the congressional session, the two chambers finally agreed, but it was too late; the Republicans, led by Sen. Dole, filibustered the bill to death. We were criticized for failing to push harder for reform at the time.

The McCain-Feingold bill

This is the first genuinely bipartisan campaign finance reform legislation in over a decade. It resembles very closely the proposal you made in 1992. Its provisions include:

- *Voluntary spending limits* - These would be set at \$600,000 per candidate for the House, and at a level varying by state population for the Senate.
- *Free TV time* - Candidates would be given substantial amounts of free TV time, offered by broadcasters as a condition of receiving a license.
- *PAC limits* - The legislation bans PAC contributions. However, it includes a fallback limiting PAC gifts to \$1000 per election (\$2000 per cycle) should the ban be found unconstitutional - which DOJ believes it almost certainly would.
- *Soft money ban*. Like our 1992 and 1993 proposals, this bill would ban large soft money contributions (which it defines as money given to federal or state parties that is designed to influence a federal election). This provision would, in effect, have prevented large contributions from individuals and foreign-owned corporations. (The original McCain-Feingold bill did not specifically address non-citizen contributors or foreign-owned corporations. However, the sponsors have indicated that when they introduce the bill again, it will ban these gifts.)

You endorsed this bill in concept during the 1995 State-of the-Union, and by name in New Hampshire the next month. Senator Dole refused to allow it to come to the floor of the Senate. After his departure, it was brought to the floor. A majority of Senators supported it (54), but it fell 6 votes short of breaking the GOP filibuster.

The “Handshake” – a bipartisan commission

On June 11, 1995, you agreed publicly with Speaker Gingrich to set up a bipartisan commission, modeled on the base-closing commission, to devise campaign finance reforms.

When you wrote to Speaker Gingrich outlining how it could work, he rebuffed the proposal, complaining it had been made publicly. He failed to respond for months thereafter. It was clear that, under pressure from the House Republican caucus, he was backing away from the proposal.

On August 4, 1995, in a last-ditch attempt to revive the commission idea, you announced that you would appoint two distinguished citizens – John Gardner and Doris Kearns Goodwin – as your appointees to help get the commission started. On your behalf, Gardner called the Speaker’s office, and was also rebuffed. Goodwin called Dole’s office, who told her that they would only move forward if Gingrich did. In the fall, Gardner quietly withdrew from the effort, and the commission negotiations expired.

In June, 1996, on his last day in office, Sen. Dole introduced legislation setting up a commission that was almost identical to your proposal. He had been a public supporter of such an idea previously, as well.

Today, reform groups and the press are demanding action on legislation, not a commission. They argue that a commission is a stalling tactic, and that McCain-Feingold is bipartisan reform.

Elements of a commission proposal

To work, a commission would have to be bipartisan, distinguished, have tight deadlines, and a mechanism for forcing congressional action. Here is the proposal you made in June, 1995 (which, at the time, was praised as a strong proposal):

- the commission would be bipartisan – 8 members, appointed by the President with the advice and consent of Congress. The President would get two appointees; the Democratic leaders would recommend two; the Speaker would recommend two; and the Senate Majority Leader would recommend two. You also proposed that the members not be Members of Congress or the administration, or officers or counsel to the political parties.
- Firm deadline – Your proposal in 1995 included a 6 month deadline for reporting to Congress.
- “Fast track” consideration for proposals – You proposed that the commission’s legislative recommendations be sent first to the President, who sends them on to Congress. They would then be considered on the “fast track” – an up-or-down vote, with no amendments, within 30 days.

Constitutional amendment

In recent years, some Democratic members of Congress have proposed a Constitutional Amendment to address campaign finance reform.

The Supreme Court's 1975 *Buckley v. Valeo* decision held that the First Amendment protects campaign contributions and campaign spending, and that the only permissible rationale for limiting them was narrowly tailored to stopping outright corruption. The court then struck down binding spending limits, and also limits on independent expenditures.

The Court has given recent indication that it intends to read this doctrine even more broadly. In June, it sided with the GOP and struck down limits on party spending.

Sen. Daschle and Rep. Gephardt both have suggested a constitutional amendment that would give Congress the power to regulate campaign spending. This would allow legislation to limit candidate spending, party spending, and independent expenditures.

Such an amendment has been defeated several times on the Senate floor, when it was offered by Sen. Hollings as an alternative to Democratic campaign finance reform legislation.

Common Cause and the other reform groups have opposed the amendment when it has been brought to a vote, because they believe reform can be accomplished under the *Buckley v. Valeo* regime, and because they see it as an evasion of the need for immediate legislation. After all, even if the amendment is passed, Congress would still have to pass campaign finance reform.

THE PRESIDENT HAS SEEN
10-18-99

THE WHITE HOUSE

WASHINGTON

October 14, 1999

99 OCT 13 PM 2:05

MEMORANDUM FOR THE PRESIDENT

FROM: KAREN TRAMONTANO
BRUCE REED

CC: JOHN PODESTA
SANDY BERGER
NEAL LANE
JACK LEW
CHARLES BURSON
BETH NOLAN

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Podesta
Berger
Lane
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Burson
Nolan*

SUBJECT: Proposed biological terrorism provisions in the Omnibus Crime Bill

Purpose

To finalize the Administration's position on the proposed biological terrorism provisions of the Omnibus Crime Bill, so that the legislation can be sent to Congress.

Executive Summary

This memo is to inform you of the consensus recommendations reached within EOP regarding the bioterrorism provisions of our crime bill. As you know, there has been a great deal of interagency contention over provisions that would bar certain categories of individuals from possessing select biological agents. Through a meeting last month and follow-up discussions, we have brokered a compromise upon which all interested EOP offices (DPC, NSC, OSTP, OMB, OSTP, and WH Counsel) can agree. John Podesta has approved the compromise agreement detailed below. We will now move forward to incorporate the recommendations into our crime bill unless you express any concerns.

Background

It is widely agreed that serious gaps exist in current law regulating possession and transfer of select biological agents. In contrast to chemical, nuclear or radiological weapons, there are currently few laws in place designed to limit the availability of hazardous biological materials to the general public. While current laws are adequate to punish perpetrators after they unleash biological agents, they are not designed to ensure that these substances are kept out of the wrong hands in the first place. Additionally, bioterrorism is a growing concern in Congress and we believe that many on both sides of the aisle will be watching to see if the Administration will produce a draft bill with a strong law enforcement focus before introducing their own proposals.

10-18-99

The Department of Justice goal in proposing legislation is to ensure that potentially hazardous biological materials do not fall into the wrong hands. HHS agrees with this goal, but has raised concerns that some of the proposed restrictions could chill vital scientific research that may be necessary to safeguard public health, and may cause concern within the medical and scientific community. With these dual concerns in mind, there is interagency agreement that the proposed Crime Bill include new provisions establishing criminal penalties for: possession of biological agents not justified by a peaceful purpose; unsafe handling of harmful biological agents; unregistered possession and unauthorized transfer of selected biological agents; and knowingly perpetrating a hoax regarding the use of biological agents.

Issues for Resolution

Transmittal of the Crime Bill has been held up since May by an interagency dispute over the categories of individuals who would be prohibited from possessing dangerous select biological agents, unless they received a waiver.

In order to address safety and security concerns, Justice believes that it is necessary to enact provisions which would criminalize the possession of dangerous biological agents by certain classes of individuals. The categories proposed by DOJ are similar to those that are applied to firearms, including individuals who are: (1) convicted of a felony crime; (2) under indictment for a felony crime; (3) unlawful users or addicts of any controlled substance; or (4) adjudicated as mentally defective or committed to a mental institution. DOJ believes that these provisions, which permit employer waivers to be issued in most circumstances, would be only minimally intrusive on the legitimate research community.

While HHS accepts the principle of prohibiting categories of "restricted individuals" from working with select biological agents, it believes that the DOJ provisions are too restrictive and could chill valid scientific research. HHS supports a narrower definition of "restricted individual" that it believes will sufficiently limit access to dangerous agents while proving less disruptive to the nation's research institutions.

The agencies also disagree over the waiver provisions. Under the Justice proposal, the employer would be permitted to grant waivers for individuals in the prohibited categories in most circumstances. HHS believes that employers would be reluctant to grant waivers for fear of incurring liability for waived individuals. HHS prefers that a Federal agency – that you would designate after the bill passes – determine the waiver policy, including whether waivers should be granted by a government agency or whether employers should make waiver determinations.

The most contentious issue has been DOJ's proposal to prohibit any non-permanent resident alien from handling select biological agents unless the U.S. Government provided a waiver. This would include many visiting students and scientists admitted under temporary visas. HHS strongly opposed the proposal over concern that it could cast suspicion over foreign nationals in general, and diminish our ability to continue to attract world-class scientists to this field of research. While the agencies disagreed over the breadth of the proposal, both agencies agreed it is appropriate for a federal agency to provide waivers for this category of individuals.

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Consensus Recommendations

On September 9, we held a meeting to resolve the areas of disagreement. In addition to the Departments of Justice and Health and Human Services, many interested EOP offices also attended including DPC, NSC, OMB, WH Counsel, OSTP, OVP, and the Chief of Staff's Office. During the meeting, the EOP offices reached a compromise position on the prohibited persons categories. Based on follow up discussions led by OMB, we have also arrived at consensus positions on the visiting foreign nationals and waiver issues that have the agreement of all interested EOP offices.

A. Prohibited persons categories

Within the prohibited persons categories, we agreed that the legislation should include:

- Individuals convicted of a felony crime or dishonorably discharged from the military.
- Individuals under indictment for any felony crime.
- Individuals who are unlawful users of any controlled substance. We agreed to drop language which would have also prohibited individuals who are "addicted to" any controlled substance.

We also agreed to exclude individuals who have been adjudicated as mental defective or committed to mental institutions from the list of prohibited persons.

B. Waivers

While at the 9-9 meeting we discussed an option to allow employers to grant waivers with the assistance of HHS guidance, we have since reached a new consensus position negotiated by OMB. The new compromise position would specify that a federal agency (designated by you after the bill's passage) will determine the waiver policy, including whether waivers should be granted by the government or whether employers should make waiver determinations, with or without government guidance.

C. Foreign nationals admitted under temporary visas

As an alternative to DOJ's original proposal to generally bar *any* non-permanent resident alien from handling select biological agents absent a federal government waiver, we agreed upon a narrower provision that would focus on the countries with which we have the greatest national security concerns. The compromise provision would require federal government waivers for non-permanent resident aliens from any country designated by the State Department as a state sponsor of terrorism (7 countries). This provision will address national security concerns, with no significant impact on legitimate research activities.

THE WHITE HOUSE

WASHINGTON

May 26, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Strategy for House Passage of Juvenile Crime and Gun Legislation

To keep pressure on the House to act on your gun proposals as quickly as possible, we need to ensure that the gun issue remains front and center over the next few weeks. As Congress prepares to leave for its Memorial Day recess, we are working with Congressional Democrats, gun control advocates and victims groups, and our allies in the gun industry on a coordinated strategy to keep the focus on passing gun legislation.

I. Update

Yesterday, Speaker Hastert and Chairman Hyde promised that next month the House would pass the major gun components of the Senate bill – mandatory background checks at gun shows, mandatory child safety locks, a lifetime ban on gun ownership for violent juveniles, a ban on importation of high-capacity clips, and a ban on juvenile ownership of assault weapons. Hastert, Hyde, and Bill McCollum also pledged support for the most important measure left out of the Senate bill, raising the handgun age to 21. Hyde said the Senate measures will be added to the juvenile justice bill in committee and brought to the floor in June, but made no commitments about the details of the provisions.

These concessions seem to signal that this summer Congress will send you a juvenile justice and gun bill you can sign. To make sure that happens, we need to maintain the pressure for quick action, and watch out for backsliding in three areas:

1. **NRA loopholes:** The House Republican leadership is obviously eager to avoid a fight with us on guns; Hyde went out of his way to say gun control is “our issue, too.” But the NRA remains defiant, and will pressure conservatives to riddle the bill with loopholes. This is a self-defeating strategy, as the Senate discovered, but many House Republicans (and some Democrats) will fall for it, and the NRA will crank up the pressure over the recess. Tomorrow, we plan to send a letter from John Podesta to Hastert commending his decision to support the Senate measures and raising the handgun age to 21, but making clear that we’ll keep a close watch on the details.
2. **Democratic defections:** Because they’re afraid guns will take hold as a partisan issue, Republicans have moved further and faster than some gun-shy Democrats. To help raise the Democratic comfort level, we have arranged for Bob Ricker and other

representatives of the gun industry to reach out to the Blue Dogs and other wavering members. As in the Senate, we may do better with Southern Democrats than with those from rural areas and out West. In particular, we may need your help in swaying influential hard-liners like Dingell, Stupak, Oberstar, and Sabo. For Democrats from marginal districts, it is especially important that every time we talk about guns, we stress that these are modest, common-sense measures targeted at criminals and juveniles, not the first step in a long-term plan to raise the gun issue at every turn.

3. **Juvenile Justice poison pills:** For months, House Republicans have bent over backward to accommodate Democratic concerns on the juvenile justice bill because they didn't want Democrats to raise the gun issue. Now that guns are on the table, the NRA may conspire with Republicans to add onerous juvenile provisions to make the overall bill unpalatable to us and to Democrats. Hyde and McCollum seem to be leaning in that direction. If so, we will have to make the case that these are partisan diversions designed to block sensible gun legislation and protect the NRA.

II. Communications Strategy

Five years ago, we went through a similar drill to pass the assault weapons ban in the House. The politics have changed, but our targets have not: suburban and marginal Republicans, wavering Democrats, editorial elites. Here is what we have in mind:

1. **Launch an editorial campaign that targets key House districts.** To help build support for the assault ban in 1994, we sent extensive information to local editorial boards in key House districts and followed up with telephone calls to make the case for the ban. We will launch a similar campaign over the recess. We will target newspapers in the districts of suburban, marginal, and undecided Republicans, with a special focus on states with Republican Senators who voted with us last week (Ohio, Illinois, Indiana, Virginia) and districts with gun manufacturers who support our efforts. Our mailing also can include a calendar of nearby gun shows and encourage local newspapers to send a reporter to see firsthand how guns are being bought and sold at guns shows in their communities.
2. **Release report on Brady background checks.** In June, the Justice Department's Bureau of Justice Statistics will complete a report updating the estimated number of illegal gun sales that have been stopped through Brady background checks. Ideally, you could release this report just as Congress returns from the Memorial Day recess -- perhaps in a White House meeting with law enforcement, or if we can find the right venue, at a school in a community where a gun show is under way. We can also release a breakdown of the new Brady numbers state by state.
3. **Release report on Gun-Free Schools Act.** Also in June, the Education Department will release a report on how many children were expelled from school during the 1997-1998 school year for bringing a gun to school. As you know, last year's report showed that more than 6,000 students were expelled for bringing a gun to school

during the 1996-1997 school year. We expect this year's report to show a decline in the number of gun-related expulsions, totaling about 5,000. We will work with the Education Department to time the report for the week of June 7.

4. **Release report on youth handgun possession and fatalities.** We have asked the Treasury Department and ATF to review gun tracing data and other statistics related to the possession and use of handguns by juveniles. We will work with them to draft a brief report that underscores the importance of raising the age of youth handgun possession from 18 to 21. As you know, more crime guns are traced to 18- and 19-year-olds than any other age group, and well over 80 percent of these firearms are in fact handguns. Ideally, we would like to release this report by June 14, when the Vice President addresses the U.S. Conference of Mayors.

We will keep looking for other ways to keep the issue in the news. Tomorrow, the House Judiciary Committee will hold a gun hearing with Wayne LaPierre, Eric Holder, Jim Johnson, and a doctor who treated victims in Littleton. Over the recess, we will try to get House Republican moderates to send the leadership a letter supporting 18-21 and the Senate bill without loopholes. We will also encourage the gun industry to work behind the scenes to reassure wavering members, and to keep up a high public profile that provides cover to all who need it.

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THE WHITE HOUSE
WASHINGTON

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April 28, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Long-Term Strategy on Littleton Aftermath

Doug, Karen, Loretta, and I have met with several White House offices, including the Vice President's and the First Lady's, to develop options for what the Administration can do to advance the national debate in the wake of the Littleton tragedy. These options are designed to 1) let the healing continue in Colorado and elsewhere; 2) help launch a serious national conversation on violence, the media, responsibility, and community; and 3) build pressure on Congress to seriously consider our gun and safe schools legislation.

1. **Presidential Visit to Littleton:** As you know, we are trying to determine by week's end when you can travel to Littleton, either to deliver the Columbine commencement on May 22 or to meet with families and the community in some other fashion.

2. **White House Summit on Violence and the Media:** There is growing interest in a White House summit to launch the "national conversation" on the culture of violence that you and the First Lady spoke of last week. The Vice President's office has suggested a series of actions over the next five months, culminating with a National Town Hall on School Safety and Parental Involvement in September. Senators Lieberman and McCain (along with Reps. Markey and Burton) wrote today asking you to convene "an emergency summit meeting at the White House with the leaders of the entertainment industry."

It might make sense to do both. The Vice President's proposal would help reassure parents and students when school resumes in the fall, and would give us time over the summer to develop a truly interactive day of dialogue which, unlike a typical White House summit, would attempt to involve communities and middle and high schools across the country via the Internet and cable. But we should also consider convening a smaller, more immediate meeting in mid-May, because we risk losing some of the urgency of this debate if we wait until the fall. One option would be to summon entertainment, media, and Internet leaders to the White House for a three-hour meeting, without the usual break-outs and run-up that accompany a typical summit. (That also would enable you to challenge the entertainment industry before your trip to Los Angeles on May 15.)

The Vice President has lined up some good announcements to make next week -- including an agreement with major internet service providers to provide a single, standardized, one-click menu that would enable parents to filter or block access to inappropriate material, and review a list of Web sites their children had recently visited.

✓ 3. **Katie Couric Interview:** If you're ready to commit to a summit, you could announce it in a Today show interview with Katie Couric that would air Friday. This is also a good chance to repeat your message about the culture of violence and the urgent need for legislation on guns.

✓ 4. **Counterscheduling on Guns:** Your impassioned speech yesterday about the gun culture led all three networks. Already, spokesmen for the gun industry have signaled that they're prepared to accept your proposals on gun shows and trigger locks. We should look for every opportunity to maintain the pressure on this issue. The Secret Service probably would not allow you to visit a gun show, but perhaps we could visit a community where a gun show is going on. Or you might take your case to a reasonable sportsmen's group -- ideally in an unexpected place like Boise or Las Vegas on your upcoming western swing.

✓ 5. **Safe Schools Legislation:** Sometime in the next ten days, you should announce your safe schools bill, which will include increased funding for counselors, mandatory counseling for young people who bring guns to school, expanded character education, alternative placements for disruptive youth, and so on. This legislation can be ready anytime: for example, you could do a safe schools event with Lee Brown on your trip to Houston May 7th.

✓ 6. **White House Conference on Mental Health:** This conference on June 7th will attract even more attention in the wake of Littleton. We will make sure that it places a strong emphasis on youth and violence. At the First Lady's suggestion, we are exploring the possibility of requiring insurers to provide greater parity in mental health coverage for young people.

✓ 7. **Address to Parents:** At some point, you should find a venue to speak directly to parents about their responsibilities, as well as about the challenges they face in finding more time to be with their families and getting more involved in their children's lives. We have a couple of announcements we have been saving: a Council of Economic Advisers report on the time crunch for working families, and the formal announcement of our parental discrimination bill.

8. **High School Commencement Outside Colorado:** Some people have suggested that in addition to the Columbine commencement, you do a commencement to reassure students and parents at another typical, all-American high school (such as Squirrel Hill in Pittsburgh).

9. **Town Hall with Young People:** As you saw at T.C. Williams High School, young people are eager to talk about this issue, and we need to keep listening. The Vice President is doing a town hall on MSNBC tonight; Nightline did one last week; CNN has another tomorrow. We will encourage Cabinet members and other principals to keep doing these. You should let us know if you would like to do one yourself.

THE WHITE HOUSE
WASHINGTON

4-21-99

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April 20, 1999

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Jose Cerda III

SUBJECT: Rep. Carolyn McCarthy's Gun Legislation

Rep. McCarthy has introduced omnibus gun legislation, much of which we can probably support. As noted below, a few provisions of her bill involving federal regulation of gun manufacturing and safety may be more controversial and less likely to be enacted than your existing proposals in those areas.

As we outline in a separate memo on potential policy responses to the Littleton shootings, we were already finishing up a comprehensive gun bill for you to announce as part of your 21st Century crime initiative. We will incorporate as many of Rep. McCarthy's provisions as possible, as well as any other solid proposals that may emerge as we learn the facts of this case.

The provisions in Rep. McCarthy's bill that most directly affect juveniles are:

• Expanding our Youth Crime Gun Interdiction Initiative to 75 cities by 2003. This program is currently in place in 27 cities. Our FY 2000 budget would increase that number to 37. Her bill also authorizes grants for additional ATF and law enforcement personnel to combat illegal gun trafficking, which we also fund in our FY 2000 budget.

• Amending the juvenile handgun ban to include semiautomatic assault rifles manufactured before the assault weapons ban went into place. Currently, an 18-year-old can legally possess rifles, including assault rifles manufactured before Sept. 13, 1994. This provision would generally ban the possession of such assault rifles until the age of 21. As part of your crime bill, we also plan to reintroduce a provision that would make a violation of this statute a felony offense. Since existing law only provides for mandatory probation, federal prosecutors have been reluctant to bring any of these cases.

• Increasing the penalty for giving or selling a handgun or assault weapon to a juvenile for use in a violent crime. Her bill would increase the maximum penalty for this offense from the current 10 years to 20 years. In our crime bill, we planned to reintroduce the provision from your juvenile crime bill that would establish a mandatory minimum penalty of 3 years, but would maintain the current maximum of 10 years.

● Creating criminal penalties for adults who give juveniles access to certain firearms. This is similar to Durbin's "Child Access Prevention" (CAP) legislation, which we supported in principle in the wake of the Jonesboro shootings. Our crime bill will include a narrowly tailored version of this provision, which reflects Justice's concerns that a federal CAP statute should only target the most egregious cases of parental recklessness, and accordingly should be a felony offense with a stiffer penalty. The McCarthy and Durbin legislation, on the other hand, would simply make it a federal misdemeanor offense for adults to allow negligent access to firearms.

● Creating a \$50 million grant program for children's gun violence prevention education in schools. This would authorize grants to local education agencies to work with law enforcement to educate children about preventing gun violence. We will look at whether we can incorporate this kind of education into our Safe and Drug-Free Schools proposal.

Rep. McCarthy's bill includes three other provisions that the Administration could conceivably support, but which are more controversial and less likely to be enacted than your own proposals in these areas:

● Prohibiting the manufacture and importation of "unsafe guns". The legislation would give Treasury broad regulatory authority to ensure that guns are designed to be child-proof or that they include safety devices that make them so. Our child triggerlock legislation requires federal gun dealers to provide a child safety-locking device with every gun sold, but does not seek any new regulatory authority over how guns or gun-safety devices are made.

● Requiring a Consumer Products Safety Commission study on handgun safety. The legislation would authorize up to \$1.5 million for a CPSC review of how to prevent the unauthorized use or discharge of handguns by children. ATF would be in a better position to conduct such a study, since the CPSC is currently prohibited from studying any firearms issues and there is little support in Congress for giving them this authority.

● Establishing a CDC program to maintain a children's firearm-related injury surveillance system. The legislation would give CDC authority to award \$5 million a year in grants to state and local governments to establish comprehensive data bases on the nature of gun-related injuries to youths under the age of 21 in their communities. Your existing youth gun crime tracing initiative is already spurring communities to gather much of this data in ways more likely to reduce gun violence.

THE WHITE HOUSE
WASHINGTON

4-21-99

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April 20, 1999

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THE PRESIDENT, WASH DC
4-21-99

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THE WHITE HOUSE
WASHINGTON

April 20, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Jose Cerda III

SUBJECT: Policy Response to School Shootings

Here are some actions and legislative initiatives the Administration can undertake when the response to the Littleton shootings inevitably turns to questions of federal policy:

1. **Announce Grants for 600 School Resource Officers.** Anytime this week or next, you can announce Justice Department grants under the COPS program to help local school districts hire some 600 police officers to work in schools. These will be the first such officers awarded under the program you announced at the White House Conference on School Safety in October, where we pledged to provide funds for up to 2,000 police officers in schools in FY99. You could also announce that schools and communities have until June 1 to apply for nearly \$100 million in Safe Schools grants to 50 cities that put together comprehensive school safety strategies -- another initiative you unveiled at the School Safety Conference.

2. **Announce Legislation to Reform and Reauthorize Safe and Drug-Free Schools.** Anytime this week or next, you can unveil our Safe and Drug-Free Schools legislation that will be included as part of the ESEA reauthorization. This proposal formally authorizes \$12 million a year for our FEMA-like emergency response teams; requires participating schools to adopt comprehensive school safety plans; and renews the requirement that schools adopt "Zero Tolerance" policies for guns. It also reforms the overall program to require competitive funding at both the state and federal level. As details emerge from the Littleton shooting, we will review this proposal to see whether any additional provisions are appropriate -- such as increased funding for guidance counselors for troubled kids; gun violence education programs; and alternative schools for disruptive and expelled students.

3. **Announce Tough New Gun Legislation.** Sometime next week -- and just days before the NRA's national convention takes place in Denver (April 30 through May 2) -- you can unveil a Youth Gun Crime Enforcement Act that includes gun initiatives you have already announced (cracking down on gun shows and gun trafficking, extending the Brady waiting period, increasing prosecution of gun crimes, tougher gun penalties, and a new provision to ban the importation of large-capacity magazines), as well as several new or previously unnoticed provisions targeted at juvenile gun violence:

- Amending the juvenile handgun ban to include semiautomatic assault rifles manufactured before the assault weapons ban went into place. Currently, an 18-year-old can legally possess rifles, including assault rifles manufactured before Sept. 13, 1994. This provision, from Rep. McCarthy's bill, would generally ban the possession of such assault rifles until the age of 21.

- Increasing the penalty for youth handgun or assault weapon possession to a felony. Under current law, this offense is a misdemeanor, punishable by mandatory probation. As a result, federal prosecutors have brought few of these cases.

- Increasing the penalty for giving or selling a handgun or assault weapon to a juvenile for use in a violent crime. This provision from our juvenile crime bill would establish a mandatory minimum penalty of 3 years, but maintain the current maximum of 10 years.

- Holding adults criminally responsible for giving juveniles access to certain firearms. You called for this in the wake of the Jonesboro shootings, but we have never before submitted our own proposal. Justice has signed off on a version to create a federal felony that is narrowly tailored to target the most egregious cases of parental recklessness.

- Expanding our Youth Crime Gun Interdiction Initiative. Our program to trace juvenile gun crimes is currently in place in 27 cities. Our FY 2000 budget includes a total of \$45 million, which will enable us to increase that number to 37. We could add Rep. McCarthy's proposal to double the number of cities to 75 by 2003.

- Juvenile Brady: This proposal from our juvenile crime bill would ban the possession of handguns by violent juveniles when they turn 21.

- Child Safety Locks: This proposal, also from our original juvenile crime bill, would require federal gun dealers to issue triggerlocks with every gun sold.

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Background on
White House Conf.
on Hate Crimes

THE WHITE HOUSE

WASHINGTON

November 6, 1997

THE PRESIDENT HAS SEEN

11-7-97

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MARIA ECHAVESTE

SUBJECT: WHITE HOUSE CONFERENCE ON HATE CRIMES

On November 10, you will host the White House Conference on Hate Crimes at George Washington University. This memorandum outlines the structure of the conference, as well as the policy initiatives that we recommend you announce there.

Purpose and Structure of the Conference

The White House Conference on Hate Crimes is designed to call national attention to the problem of hate crimes and to highlight effective law enforcement and educational strategies to address this problem.

Breakfast in the East Room. The Conference will begin with a breakfast in the East Room for the approximately 350 participants. The Attorney General will introduce you, and you will make brief welcoming remarks.

Morning Session. The morning session will begin with welcoming remarks by Stephen Trachtenberg, President of George Washington University. The Vice-President will then speak briefly. The following people will introduce you and the Vice President:

- Chuennee Sampson, student, Duke University, North Carolina. As an African-American high school student in Crown Heights, NY, Ms. Sampson became a peer trainer with the Anti-Defamation League ("ADL"). She helped start the *Students Against Violence Everywhere* ("SAVE") while in high school. Ms. Sampson continues to work with children in low-income areas.
- William Johnson, retired police officer, Boston Police Department. Mr. Johnson has worked extensively in the hate crimes unit in Boston, and recently won an award for his involvement.

During your remarks, you will announce several new law enforcement and prevention initiatives, including a proposal to expand the principal federal hate crimes statute. These

initiatives are detailed later in this memorandum.

Following your remarks, you will moderate a panel discussion with the Attorney General, the Secretary of Education, and seven other participants. Each of the seven participants listed below will give brief opening remarks:

- Peter Berendt, Principal, Mamaroneck Avenue Elementary School, Mamaroneck, New York. Following a series of hate crimes in the community, Mr. Berendt convened the *E Pluribus Committee* to address the diversity issues facing the school community. His school currently is engaged in a comprehensive diversity awareness program.
- Tammie Schnitzer, Billings, Montana. Ms. Schnitzer is a Jewish woman who was the victim of an anti-Semitic hate crime in Billings, Montana. In response, Ms. Schnitzer successfully encouraged Jews and non-Jews alike to display menorahs in the windows of their homes. Ms. Schnitzer's efforts were the subject of a television movie, *Not in This Town*.
- Hon. Sheila Kuehl, President Pro Tempore, California State Assembly. Ms. Kuehl is the first openly gay or lesbian member of the California State Assembly and the author of legislation to prohibit discrimination against gay and lesbian students in California public schools. Ms. Kuehl also has been an outspoken advocate condemning violence against women.
- Raymond Delos Reyes, sophomore, Franklin High School, Seattle, Washington. Mr. Reyes has worked with the ADL's Children of the Dreams program and is a member of a peer mediation training program at his high school.
- Samuel Billy Kyles, Pastor, Monumental Baptist Church, Memphis, Tennessee. Mr. Kyles is an outspoken advocate of civil rights and plays an important role in the religious community's efforts to erase hate crimes. Mr. Kyles is a member of Ecumenical Minister's Task Force. He also was a close friend of Dr. Martin Luther King and was with Dr. King during the last hours of his life.
- Arturo Venegas, Jr., Chief of Police, Sacramento Police Department. Mr. Venegas helped to develop the Sacramento Police Department's model program to deal with hate crimes in the community.
- Grant Woods, Arizona Attorney General. Mr. Woods was a strong advocate for one of the first and strongest hate crime bills in the country and was the most visible Republican proponent of the Martin Luther King Holiday.

Afternoon Session. The afternoon session will consist of seven breakout sessions of approximately fifty participants each. Each of these sessions will address a different aspect of

the hate crimes issue and will be moderated by a Cabinet Secretary or senior government official. The topics and moderators of the breakout sessions are:

1. Hate Crimes in Schools (K-12): Prevention and Response (Secretary Riley);
2. Hate Crimes on Campus: Prevention and Response (Franklin Raines);
3. Law Enforcement Response to Hate Crimes (Attorney General Reno);
4. Understanding the Problem: Improving Hate Crime Statistics (Deputy Attorney General Holder);
5. Hate Crimes in Public and Private Housing (Secretary Cuomo);
6. Community Responses to Hate Crimes (Secretary Glickman); and
7. Counteracting Organized Hate (Secretary Slater).

Following the breakout sessions, the Attorney General will host a panel, consisting of the six other moderators of the breakout groups. This panel discussion will highlight the issues and ideas that surfaced during the breakout sessions. Following the panel discussion, the Attorney General will make concluding remarks.

Satellite Sites. People at approximately 45 satellite sites across the country will view your remarks and the morning panel discussion. The satellite hosts have planned customized programs for the afternoon to complement the morning program. Some members of your Race Advisory Board are participating in the programs occurring at the satellite sites.

Policy Announcements to be Made at the Conference

We recommend that you make the following policy announcements, which focus on the expansion of the federal hate crimes legislation, the improvement of law enforcement mechanisms to fight hate crimes, and the dissemination of educational materials on this issue.

Legislation. You can announce the Administration's support for legislation to expand the principal federal hate crimes statute. The law currently prohibits hate crimes only on the basis of race, color, religion, or national origin. Your proposed amendment would extend the law to prohibit hate crimes based on gender, sexual orientation, and disability. (To satisfy constitutional concerns, the law would require proof of interstate commerce in this new class of cases.) Senator Kennedy and Senator Spector are expected to introduce this legislation shortly after the Conference.

There is some concern that extension of the statute to gender-motivated hate crimes--which might lead to the inclusion of all rapes and sexual assaults--would greatly expand the number of cases requiring investigation by federal agents. In order to address this concern, the Administration supports several limiting principles that would reduce the number of cases actually investigated and prosecuted by the federal government. Guidance to federal investigators and prosecutors, for example, might suggest investigation and prosecution of gender-motivated hate crimes only in cases that appear to involve the most egregious evidence of

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gender-based bias. In addition to rebutting charges that the proposed amendment would lead to the federalization of much "ordinary" crime, such guidance also would greatly reduce the cost associated with federal enforcement. (Given the low probability that this amendment will pass this year -- as well as a fair degree of confidence that, if necessary, DOJ can enforce it with existing resources -- DOJ is not requesting any funds in 1999 to implement this legislation.)

Enforcement. We also recommend that you announce a package of law enforcement proposals, including:

- Creation of a Network of Local Hate Crime Working Groups. Under this proposal, each U.S. Attorney would either establish a local hate crime working group in his or her district, or if such a body already exists, actively participate in the group. These working groups--essentially federal-state-local partnerships-- would include representation from the U.S. Attorney's office, the FBI, state and local law enforcement, state and local prosecutors' offices, and advocacy groups. In addition to addressing law enforcement strategies, the groups would seek to educate the public about hate crimes. A National Hate Crimes Working Group, located at the Main Justice, would coordinate the work of all the working groups across the country. As part of this coordinating function, the National Hate Crimes Working Group would distribute, on an ongoing basis, information on promising practices.

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Additional FBI Agents for Hate Crimes Enforcement. This proposal involves assigning over 40 FBI agents and prosecutors to the task of hate crimes enforcement. OMB and Justice are currently discussing whether Justice needs additional monetary resources to effect this policy. (The cost of the agents and prosecutors is approximately \$4 million; DOJ has asked for about \$13 million in FY99 for hate crimes/civil rights activities.) We plan to try to avoid this budgetary issue by simply saying that the amount of additional resources required, if any, will be settled in the normal budget process.

- Hate Crimes Training for Law Enforcement. DOJ has developed a model law enforcement training curriculum on hate crimes that can be incorporated into programs at local and state law enforcement training centers. This curriculum includes three course segments -- one for law enforcement officers, one for investigators, and one for others in the law enforcement field. You can direct DOJ to make this curriculum available for use across the country in 30 days.
- Make 'em Pay Initiative. HUD has developed an initiative to assist victims of hate crimes and discrimination in housing to seek monetary damages from the perpetrators. HUD has created a unit that will bring civil suits on behalf of residents of public and private housing who have suffered hate crimes and other discrimination. This initiative will require no new money.

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- Improved Reporting of Hate Crimes Statistics. The National Crime Victimization Survey is an annual survey conducted by the Department of Justice's Bureau of Justice Statistics to measure levels of crime through a national sampling of victims of crime. At present, it does not include questions about hate crimes. Beginning in 1998, the Department of Justice will include questions related to hate crime in NCVS. The survey will inquire whether the victim believes the incident was bias-motivated and why. (The Government currently does attempt to gather hate crimes statistics, but by a notably less effective mechanism.) Expanded questioning regarding hate crimes will also be a part of a pilot project to take place next spring to improve the NCVS.

Education. You can also announce two new educational initiatives. First, the Departments of Justice and Education have proposed a manual for educators on preventing youth hate crime that encourages schools to confront hate-motivated behavior among students; promotes development of comprehensive, programmatic responses to prejudice and violence; and makes educators aware of resources that can be used for this purpose. The Departments intend to send this resource guide to every school in the country. Second, the Department of Justice has created a new website, "Hateful Acts Hurt Kids," addressing prejudice, discrimination, and related issues in an interactive, graphic format designed for children in kindergarten through fifth grade, as well as their parents and teachers. This site will be available for viewing at the Conference.

THE PRESIDENT HAS BEEN
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THE WHITE HOUSE
WASHINGTON

November 4, 1997

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MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES F.C. RUFF
BRUCE REED
RAHM EMANUEL

SUBJECT: "Sporterized" Assault Weapons Directive

This memorandum is in response to questions you raised concerning the options described in our memorandum of October 30 concerning the importation of "sporterized" assault weapons. Under Option 2, Treasury would suspend action on all pending applications and future permits but not suspend existing permits pending its full review of the sporting purposes criteria. As part of this approach, Treasury would review the importation and criminal use of sporterized weapons and suspend existing permits if the evidence so warranted. You asked how long it would take for Treasury to conduct this interim review and make such a decision.

We have been informed by attorneys at Treasury and ATF that the plan for the review process is still being written. The plan is expected to have 3 separate tracks running simultaneously, the first two of which could be completed within 5 to 10 weeks. The first track would involve gathering and analyzing law enforcement statistics and other information relating to the use of the imported weapons in criminal activity. These "tracing" figures and other anecdotal information could support, depending on their quality, the immediate suspension of existing permits.

The second track would focus on a technical analysis of the weapons, comparing them to other acceptable sporting rifles. This analysis would include reviewing the existing sporting purposes criteria and its application to the weapons at issue. This process is also estimated to take 5 to 10 weeks and could uncover new facts that would warrant immediate suspension of the existing permits.

The final track, which is expected to take 120 days, will focus on the actual purpose and use for which these weapons are acquired. This process will include a nationwide survey of the buyers and users of these weapons. This track offers the best chance for acquiring information supporting modification of the sporting purposes test to prohibit the importation of these weapons.

Treasury and ATF attorneys also noted that if there is a drastic increase in the numbers of weapons actually being imported through existing permits during the 120 day period, in conjunction with favorable facts gathered from any of the review tracks, our claim that sufficient circumstances exist to warrant the suspension of existing permits would be substantially stronger.

In sum, it is unlikely that the review process will uncover additional facts supporting the suspension of existing permits in less than 5 weeks. Based upon our conversations with the attorneys at Treasury and ATF, we believe a more accurate estimate is 10 weeks, but that the entire 120 day review may be necessary. And, as the Treasury and ATF attorneys emphasize, even the full 120 day review may not uncover sufficient additional information that would justify changing the sporting purposes test or suspending any existing permits.

Finally, our respective recommendations, as set forth in the attached October 30 memorandum, have not changed as a result of this additional information.

THE WHITE HOUSE
WASHINGTON

October 30, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
RAHM EMANUEL

SUBJECT: "Sporterized" Assault Weapons Directive

Attached is a draft directive on the importation of a new class of modified, or "sporterized," assault weapons. As you know, the 1994 Crime Bill bans 19 specific assault weapons, their duplicates, and certain other semiautomatic weapons with military-style features. The 1968 Gun Control Act more generally prohibits the importation of firearms that are not "generally recognized as particularly suitable or readily adaptable to sporting purposes." In recent years, certain gun manufacturers have redesigned "assault-type" weapons in minor ways to circumvent the 1994 ban and to meet the criteria currently used to apply the sporting purposes provision of the 1968 Act. This directive is intended to address importation of such redesigned weapons.

The directive essentially mirrors the action you took in 1993 to ban the importation of assault pistols and the action President Bush took in 1989 to ban the importation of assault rifles. Everyone agrees that the directive should: (1) require Treasury to reexamine, and if necessary, modify the criteria used to keep non-sporting weapons out of the country; and (2) temporarily suspend the approval of all pending and future applications for permits to import sporterized assault weapons. Although only a limited number of these firearms has come into the country since passage of the assault weapons ban (approximately 14,000 in 1994, 12,000 in 1995, 30,000 in 1996, and nearly 20,000 to date this year -- as opposed to nearly 160,000 in 1993), applications are now pending to import as many as 1.1 million more of these firearms. The directive would halt importation of these firearms while Treasury conducts its review -- and depending on the outcome of that review, could lead to a permanent ban on such weapons.

As you know, we have not yet resolved whether the Administration should take the additional step of temporarily suspending permits that already have been granted. While ATF originally estimated that 300,000 sporterized assault weapons could be legally imported under roughly 50 existing permits, the Bureau now puts the figure at about 600,000. The difference is due largely to ATF staff's approval last week of 3 permits for an additional 175,000 sporterized firearms -- action taken in the face of an informal departmental directive not to act on pending applications until the scope of this directive was determined.

We have asked Treasury, Justice, and White House Counsel to develop the strongest possible case for temporarily suspending existing permits. Justice litigators continue to have

serious doubts that we have a sufficient factual basis for taking this action. They point out that, in upholding the Bush Administration's suspension of existing permits in 1989, the court relied on a combination of specific facts, including: a large number of approved and pending permits for assault rifles; a 57% increase in the number of assault rifles recovered at crime scenes; and several highly publicized shootings involving assault rifles, such as the Stockton, CA murders. Arguably, the same combination of circumstances does not exist today. While the number of approved and pending permits is comparable, the 145% increase in the number of sporterized weapons traced since 1994 is largely attributable to an expanded tracing program (indeed, other makes of guns have shown a larger increase in tracings), and no highly publicized crimes have involved these weapons.

Given these circumstances, Justice litigators believe that a court is very likely to enjoin our suspension of existing permits. Justice also points out that a loss on this issue could undermine our ability to defend any future action taken by Treasury to modify the test for non-sporting weapons: for example, a court that believes we stepped over the line in suspending existing permits may doubt whether we have a bona fide basis for modifying the criteria used to apply the sporting purposes test. The Justice Department, however, has stated clearly that it will defend in court an Administration decision to suspend existing permits.

You have the following options with respect to the scope of the directive:

Option 1: Suspend action only on applications for pending and future permits (covering about 1.1 million firearms). Allow imports under the 50 existing permits (covering 600,000 firearms) during the review period. If Treasury ultimately changes the sporting purposes test, revoke permits for firearms inconsistent with the new criteria. Treasury and Justice lawyers believe this option is entirely defensible. Senator Feinstein and other Members of Congress would complain that this action is not sufficiently bold.

Option 2: Suspend action on pending and future permits, and require Treasury to closely monitor the levels of importation and criminal use of sporterized firearms during the review period. If during the review period, the Secretary determines that circumstances warrant additional action, including suspension of existing permits, then Treasury would be directed to take such action. Although this solution will not be acceptable to Senator Feinstein, it may dampen criticism from others -- and substantially reduce our litigation risk.

Option 3: In addition to suspending action on pending and future permits, temporarily suspend all existing permits (50 permits for 600,000 firearms) while ATF reviews the sporting purposes criteria. After this review, if Treasury changes the sporting purposes test, revoke permits for firearms inconsistent with the new criteria. Justice litigators believe that this option presents a substantial litigation risk and could undermine our ability to defend future action by Treasury to modify the sporting purposes test. Additionally, key Treasury staff would spend much of the review period in court -- and not necessarily working on re-examining the sporting purposes test.

Recommendation:

Chuck Ruff believes that, although it would be consistent with the Justice Department's professional obligations to defend the revocation of existing permits, there is a substantial risk that any ensuing litigation would ultimately undermine ATF's ability to make defensible changes in the sporting purposes criteria. Not only would discovery reveal the current weaknesses in ATF's analysis -- and thus potentially in the predicate for any changes it may propose -- but an adverse decision in the district court (and in the court of appeals) would adversely affect our ability to defend challenges to the new criteria. Thus, he would prefer Option 2.

We are comfortable with either Option 2 or Option 3. (Option 1 looks weak in not holding out even the possibility of a suspension of existing permits.) Option 3 looks stronger to start with, but may well result in a quick loss in court. Option 2 will be subject to immediate criticism by Feinstein and others, but may hold up best over time.

THE WHITE HOUSE
WASHINGTON

October 31, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN *Phil*
SEAN MALONEY *SM*

As you know, the directive on modified or "sporterized" assault weapons is ready except for one outstanding issue, as outlined in the attached Rahm/Bruce Reed memo. They seek a decision on whether the directive should temporarily suspend existing importation permits in addition to pending and future permits.

Background. ATF estimates that about 600,000 sporterized weapons can be imported under existing permits, including about 175,000 under a permit that ATF staff approved last week. (ATF approved the permit in the face of an informal departmental directive not to act on pending applications until the scope of this directive was determined.) Pending applications will permit importation of another million weapons. Everyone agrees your directive should (a) require Treasury to reexamine and, if necessary, modify the importation criteria to keep non-sporting weapons out; and (b) temporarily suspend the approval of all pending and future applications. The issue is whether to suspend also the permits ATF has already granted.

Options. You have three options: (1) suspend action only on pending and future permits; (2) suspend pending and future permits; require Treasury to monitor importation levels and criminal use of the weapons; and authorize Treasury to suspend existing permits during the review period if warranted; or (3) suspend pending, future and existing permits.

Views. There is no real support for Option 1. *Chuck Ruff and DOJ* support Option 2. They believe an existing-permit suspension (Option 3) would not survive in court -- there is not a sufficient factual basis for upholding such an action as there was in 1989 when a court last addressed this issue. Furthermore, they believe such a loss could cripple efforts to modify the importation criteria. *Rahm and Bruce* are comfortable with either Option 2 or Option 3. They note Option 3 looks stronger but may well result in a quick loss in court; Option 2 could be subject to criticism as "weaker" but may well hold up best over time. *Secretary Rubin* supports Option 3.

___ Option 1 ___ Option 2 ___ Option 3

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October xx, 1997

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

Subject: Importation of Uzi and Galil Firearms

The historic Violent Crime Control and Law Enforcement Act of 1994 banned 19 specific assault weapons, duplicates of those 19 firearms and certain other semiautomatic weapons possessing various military style features. The Administration and Congress worked to ban these deadly firearms because -- as the weapon of choice for gangs and drug dealers -- they were being recovered at numerous crime scenes and resulting in criminals being better armed than some of the nation's law enforcement officers. Last year, in part as a result of the ban on assault weapons, fewer police officers were slain in the line of duty than in any year since 1960, and fewer law enforcement officers were killed by assault weapons.

In addition to the prohibitions contained in the 1994 ban on assault weapons, the 1968 Gun Control Act further restricts the importation of firearms unless they are determined to be particularly suitable for or readily adaptable for sporting purposes. To enforce this law, the Treasury Department has developed a factoring system to determine whether handguns meet this sporting purposes test and are thus importable. The Department also determined that semiautomatic assault type rifles do not meet the sporting purposes test and are not importable.

I am now informed that 2 of the 19 assault weapons that were specifically banned from importation in 1989, the Galil and the Uzi, have been redesigned in order to circumvent the ban. The Galil and Uzi, which are manufactured by Israeli Military Industries, were banned because -- in their military configurations -- they were found to have no legitimate sporting purpose. It is now appropriate to determine whether the redesigned weapons would have legitimate sporting purposes in this country and are suitable for continued importation under the provisions of the Gun Control Act of 1968.

My Administration has aggressively enforced all applicable laws to keep non-sporting firearms and other munitions posing a threat to public safety from entering the country. Therefore, I direct you to:

- 1) Take the necessary steps to reexamine and determine whether the sporting purposes test should be modified with respect to the importation of the Galil, Uzi and any other firearms that have been similarly adapted or re-engineered since the 1989 ban on the importation of semiautomatic assault rifles or the 1994 ban on semiautomatic assault weapons;

[Option 1]-

- 2) *Effective immediately, suspend action on pending and future applications to import these weapons until this review is complete.*

[Option 2]

- 2) *Effective immediately, suspend action on pending and future applications to import these weapons until this review is complete; and*
- 3) *During this review period, closely monitor the continued importation and criminal use of these modified assault-type weapons, and -- if you determine that circumstances warrant additional action -- take any other appropriate action including the suspension of existing permits.*

[Option 3]

- 2) *Effective immediately, suspend all existing permits and action on pending and future applications for permits to import these weapons until this review is complete.*

Nothing herein shall be construed to require actions contrary to applicable provisions of law.

THE WHITE HOUSE

WASHINGTON

October 30, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
RAHM EMANUEL

SUBJECT: "Sporterized" Assault Weapons Directive

Attached is a draft directive on the importation of a new class of modified, or "sporterized," assault weapons. As you know, the 1994 Crime Bill bans 19 specific assault weapons, their duplicates, and certain other semiautomatic weapons with military-style features. The 1968 Gun Control Act more generally prohibits the importation of firearms that are not "generally recognized as particularly suitable or readily adaptable to sporting purposes." In recent years, certain gun manufacturers have redesigned "assault-type" weapons in minor ways to circumvent the 1994 ban and to meet the criteria currently used to apply the sporting purposes provision of the 1968 Act. This directive is intended to address importation of such redesigned weapons.

The directive essentially mirrors the action you took in 1993 to ban the importation of assault pistols and the action President Bush took in 1989 to ban the importation of assault rifles. Everyone agrees that the directive should: (1) require Treasury to reexamine, and if necessary, modify the criteria used to keep non-sporting weapons out of the country; and (2) temporarily suspend the approval of all pending and future applications for permits to import sporterized assault weapons. Although only a limited number of these firearms has come into the country since passage of the assault weapons ban (approximately 14,000 in 1994, 12,000 in 1995, 30,000 in 1996, and nearly 20,000 to date this year -- as opposed to nearly 160,000 in 1993), applications are now pending to import as many as 1.1 million more of these firearms. The directive would halt importation of these firearms while Treasury conducts its review -- and depending on the outcome of that review, could lead to a permanent ban on such weapons.

As you know, we have not yet resolved whether the Administration should take the additional step of temporarily suspending permits that already have been granted. While ATF originally estimated that 300,000 sporterized assault weapons could be legally imported under roughly 50 existing permits, the Bureau now puts the figure at about 600,000. The difference is due largely to ATF staff's approval last week of 3 permits for an additional 175,000 sporterized firearms -- action taken in the face of an informal departmental directive not to act on pending applications until the scope of this directive was determined.

We have asked Treasury, Justice, and White House Counsel to develop the strongest possible case for temporarily suspending existing permits. Justice litigators continue to have

serious doubts that we have a sufficient factual basis for taking this action. They point out that, in upholding the Bush Administration's suspension of existing permits in 1989, the court relied on a combination of specific facts, including: a large number of approved and pending permits for assault rifles; a 57% increase in the number of assault rifles recovered at crime scenes; and several highly publicized shootings involving assault rifles, such as the Stockton, CA murders. Arguably, the same combination of circumstances does not exist today. While the number of approved and pending permits is comparable, the 145% increase in the number of sporterized weapons traced since 1994 is largely attributable to an expanded tracing program (indeed, other makes of guns have shown a larger increase in tracings), and no highly publicized crimes have involved these weapons.

Given these circumstances, Justice litigators believe that a court is very likely to enjoin our suspension of existing permits. Justice also points out that a loss on this issue could undermine our ability to defend any future action taken by Treasury to modify the test for non-sporting weapons: for example, a court that believes we stepped over the line in suspending existing permits may doubt whether we have a bona fide basis for modifying the criteria used to apply the sporting purposes test. The Justice Department, however, has stated clearly that it will defend in court an Administration decision to suspend existing permits.

You have the following options with respect to the scope of the directive:

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Option 2: Suspend action on pending and future permits, and require Treasury to closely monitor the levels of importation and criminal use of sporterized firearms during the review period. If during the review period, the Secretary determines that circumstances warrant additional action, including suspension of existing permits, then Treasury would be directed to take such action. Although this solution will not be acceptable to Senator Einstein, it may dampen criticism from others -- and substantially reduce our litigation risk.

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Recommendation:

Chuck Ruff believes that, although it would be consistent with the Justice Department's professional obligations to defend the revocation of existing permits, there is a substantial risk that any ensuing litigation would ultimately undermine ATF's ability to make defensible changes in the sporting purposes criteria. Not only would discovery reveal the current weaknesses in AT's analysis -- and thus potentially in the predicate for any changes it may propose -- but an adverse decision in the district court (and in the court of appeals) would adversely affect our ability to defend challenges to the new criteria. Thus, he would prefer Option 2.

We are comfortable with either Option 2 or Option 3. (Option 1 looks weak in not holding out even the possibility of a suspension of existing permits.) Option 3 looks stronger to start with, but may well result in a quick loss in court. Option 2 will be subject to immediate criticism by Einstein and others, but may hold up best over time.

January 19, 1993

**FROM: BRUCE REED
 JOSE CERDA**

SUBJECT: CRIME BILL CONFERENCE: OUTSTANDING ISSUES AND RECOMMENDATIONS

The White House and the Justice Department have reached substantial agreement at the staff level on a series of recommended positions for the Administration to take going into conference on the crime bill. Webb Hubbell provided the attached summary from the Justice Department, and the key issues are summarized below. We are also working with the Department of Labor and the National Economic Council on the question of job creation and training as it relates to the crime bill. Secretary Reich will send you options within the next few days on behalf of Labor, HUD and Justice.

The Senate is eager for a quick conference on the crime bill. Chairman Brooks says he wants direction from the Administration, but needs to accommodate the demands of his committee members for additional votes on habeas reform, the death penalty, and other issues before going to conference. The House leadership wants Brooks to move quickly, and we should reinforce that message. The longer it takes to conference, the harder it will be to maintain bipartisan support and avoid the return of gridlock.

The State of the Union address is an opportunity to urge quick passage of a crime bill and define the upcoming crime debate. We hope that you will use it to stress the crime-
fighting programs you favor (more cops, boot camps, and drug courts; an assault weapons
ban; safe schools; etc.); challenge all Americans to set an example for their children by
staying off drugs, work as partners with the police, and take personal responsibility for
making their neighborhoods safe; and finally, promise Americans a criminal justice system
that sends violent criminals to jail and keeps them there.

II. MAJOR ISSUES

A. "Three Strikes and You're Out" for Violent Offenders

White House and Justice recommend that you support some version of the "three-strikes-and-out" provision in the Senate crime bill, targeted to violent repeat offenders. The Senate provision would apply to individuals with three federal and/or state drug or violent crime felony convictions, which are punishable by a maximum prison term of 10 years or more, so long as the third conviction is in federal court. Justice believes this is a sound approach, and will work with conferees to ensure that the final version is well-targeted.

Governors across the spectrum from Mario Cuomo to George Allen have made three-strikes-and-out the central crime plank of their State of the State addresses. Voters in Washington approved it overwhelmingly in November, and legislatures in California, Virginia, New York, and elsewhere are expected to enact versions of it this spring. The idea is sweeping the country because Americans believe that keeping violent criminals behind bars is the single most effective step we can take to reduce violent crime -- and they're right: 6% of violent offenders commit 70% of all violent crimes.

We recommend that you support a version of three-strikes-and-out in the crime bill, and call for it in the State of the Union. It will send a clear signal that you want action on all fronts, from tough punishment as well as crime prevention.

B. Regional Prisons/Truth-In-Sentencing

The Senate crime bill authorizes \$3 billion for grants to states for boot camps and state prisons, and another \$3 billion for 10 federally-run regional prisons (2,500 inmates each) for violent state offenders and criminal aliens. The regional prison slots come with a catch: to qualify, states would have to certify that violent felons (those punishable by a maximum prison term of 5 or more years) are serving at least 85% of their sentences, and that state sentences for violent crimes are at least as rigorous as their federal counterparts.

It will be difficult to keep regional prisons out of the bill. They are a "must have" provision for Republicans, and attract enough support from Representative Schumer and other Democrats to have been included in the final 1992 crime bill conference report.

White House and Justice believe that the best way to preempt the current regional prisons proposal -- and help states deal with the legitimate problem of violent, repeat offenders -- is to add a truth-in-sentencing condition to the original Democratic proposal on grants to states for boot camps and state prisons. As with the "three-strikes-and-out" provision, Justice believes that they can craft legislative language that is sufficiently narrow to focus on only the most serious violent offenders. The broad Republican version of truth-in-sentencing is a massive unfunded mandate on the states; we can design a carefully targeted

alternative that will give the states a better deal, though they will still consider it an underfunded mandate.

C. Federalizing Gun and Other Crimes

The Senate crime bill creates a number of new federal crimes, most of which are primarily symbolic. Justice would like to oppose one in particular: a D'Amato amendment that federalizes most gun crimes by making a federal crime of all murders committed with a firearm, and of the use, possession, or carrying of a firearm during the commission of a state violent crime or drug offense. These provisions are excessively broad, and we recommend that you oppose their inclusion in the crime.

The Senate bill also creates new federal crimes in the area of criminal street gangs, parental accountability for juvenile crimes, and domestic violence. Justice does not recommend that you oppose these new federal crimes, but would like to modify the language to ensure that federal law enforcement efforts supplement -- not supplant -- local law enforcement efforts.

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D. Mandatory Minimums

The Justice Department worked closely with Senator Biden's staff and others to try to keep new mandatory minimum sentences out of the crime bill replacing specific sentencing floors with language directing the Sentencing Commission to provide for an "appropriate enhancement" for a particular crime. They had little success.

But the Senate crime bill does include a "safety valve" that will allow non-violent, first-time offenders, who are being sentenced under three of the most popular federal drug-related mandatories, to be sentenced under the sentencing guidelines rather than receiving mandatory minimum sentences. This narrow provision represents a bipartisan compromise between Senators Simon, Kennedy, Hatch and Thurmond, as well as the Attorney General and the Sentencing Commission. Along with the Attorney General's recent loosening of the Justice Department's prosecutorial guidelines, this provision will give her more than enough flexibility in dealing with mandatory minimums. White House and Justice recommend that you support the safety valve provision.

Justice would like you to go further by categorically opposing new mandatory minimums, and directing the Sentencing Commission to enhance sentences instead. We disagree. We do not believe that mandatory minimums are as serious a problem at the federal level as they are at the state level. In July, 1993, GAO issued a report (based on a review of 900 cases in 8 judicial districts) showing that in 70 percent of drug cases carrying mandatory minimums, defendants were sentenced to stiffer sentences pursuant to the sentencing guidelines than they would have been under the mandatory minimum. The GAO's

review also revealed that in only about 5 percent of federal drug cases was a mandatory minimum sentence imposed that was longer than the punishment proscribed by the sentencing guidelines.

Moreover, the strategy Justice recommends will only draw attention to the Administration's forthcoming nominations to the Sentencing Commission, who are bound to be highly controversial in any case. Most of the prospective nominees interviewed by the Justice Department are outspoken critics of the sentencing guidelines. The combined effect of these steps -- prosecutorial guidelines from the Attorney General advising U.S. Attorneys not to seek tough sentences for certain crimes, Sentencing Commission nominees who want to give judges broad discretion, and an effort to take tough sentences out of the crime bill and leave them up to those same nominees instead -- will be to make this Administration look like it's easing up on crime at the very time it ought to be cracking down.

We recommend that rather than setting out to weaken tough sentences in the crime bill, the Justice Department focus its efforts on not federalizing crimes that don't belong in federal court. The most far reaching new mandatory minimums in the crime bill is part of the D'Amato amendment, which would set mandatory sentences for virtually all gun crimes. We believe the Administration should leave the other minimums to the conferees to decide. We can't take a principled stand against new minimums if we're going to support "three strikes and out."

E. Assault Weapons and Other Gun Issues

The Senate crime bill includes a tough assault weapons ban, a ban on the possession of handguns by minors, and several critical changes to strengthen the federal firearms licensing system, including requiring gun dealers to comply with all state and local laws and to report lost or stolen inventory to ATF.

White House and Justice recommend that you strongly support all of these provisions and insist on their inclusion. Dole said on Meet the Press this month that the Republicans would accept an assault weapons ban if we would accept their tough prison and sentencing provisions. Biden and Schumer have supported the same deal. We believe that is a good deal for us, especially if we can work something out with the Republicans on truth-in-sentencing and prisons.

An assault weapons ban will still be an uphill struggle in the House, but it's a fight well worth having. The crime bill conference debate shouldn't be about whether we're for prevention vs. punishment, or whether or not we support tough measures for repeat offenders. It should be about whether or not the Republicans will accept common-sense gun measures that are long overdue and have broad public support, and whether or not Republicans will block a \$22 billion crime bill to placate the NRA.

II. OTHER ISSUES

A. 100,000 Cops Title

The Senate crime bill authorizes a total of \$8.995 billion over the next five years to hire 100,000 new police officers and expand community policing. Eighty-five percent of these funds would be used to hire new police officers for deployment in community policing, and fifteen percent would be used for programs to help department re-orient their emphasis to more pro-active community policing (i.e., specialized training, new technologies that help keep cops on the beat, and community crime prevention programs).

181 White House and Justice recommend endorsing the Senate version and insisting on 100,000 cops. We will need to make a few minor changes, based on what we learned in developing and administering the \$150 million Police Hiring Supplement. After the phenomenal response to the \$150 million program (more than 4,000 applications), Justice wants to amend the policing title to turn grants for smaller jurisdictions (under 100,000) over to the states. We would like to try to reserve at least 60% of the program's resources for larger jurisdictions. (The House would set aside 60% of the program's funds for cities under 100,000; the Senate splits the police monies evenly between cities with populations over 150,000 and those under 150,000.) We also recommend giving the Attorney General increased flexibility in awarding the 15 percent of the funds that do not go toward the actual hiring of personnel.

Hub
Caucus
Special
Meeting
11/20/92
Finally, we will seek some miscellaneous changes, such as: making sure we have the ability to give Empowerment Zones priority designation; allowing overtime costs during the first year of a grant, when new police personnel are in training; and allowing priority designations for projects that involve the recruiting of departing military personnel as police officers. We will also follow up on Rev. Jesse Jackson's suggestion that encouraging police (and other potential role models) to move into marginal neighborhoods can have the same kind of impact as putting more police on the street. We will seek to include a provision that allows us to give priority to cities that make a concerted effort to lure people back into the neighborhoods they serve.

Much like the gun provisions in the crime bill, the full burden of passing an effective policing title that put 100,000 more police on the street is on the Administration. It is quite likely that members will try to reduce the size of the police program in conference -- as Congress did with the supplemental appropriations bill. We recommend that you strongly support and insist on your version of the policing program.

B. Violent Crime Reduction Trust Fund

As you know, Senators Byrd, Mitchell, Sasser, Biden, Hatch, Dole, Gramm and others reached agreement on an amendment to codify your 252,000 federal workforce reduction,

transfer these savings into a newly-created Violent Crime Reduction Trust Fund (VCRTF), and reduce the discretionary caps by an equal amount. The total amount of money available for crime bill authorizations under the amendment would be \$22.268 billion over the next 5 years. Recognizing that the creation of the VCRTF is essential to achieving a crime bill conference report, you have already elected to include it in the FY 1995 budget.

White House and Justice recommend supporting the VCRTF in conference. We will need to make one change in conference, to adjust authorization levels so that expenditures in the early years correspond with the savings coming into the VCRTF.

C. Jobs and the Crime Bill

Pursuant to your conversation with Secretaries Reich and Cisneros and the Attorney General, Domestic Policy and the NEC have met with appropriate agency staff to discuss what job-related provisions could be included within the context of the crime bill. The Secretaries intend to submit a joint memorandum to you soon. Here are the options they are currently considering.

*15/1/95
J. L. Reich*

Youth Fair Chance: Labor will recommend that you support a \$1 billion Youth Fair Chance Initiative that has a specific emphasis on crime and violence. The Youth Fair Chance program focuses on youth growing up in high-poverty areas by saturating neighborhoods of about 25,000 people with funds for school-to-work programs for in-school youth and job training for out-of-school youth. Additionally, grant recipients must commit to a number of complementary initiatives such as expanding sports recreation programs and public/private partnerships. The only real difference between the current Youth Fair Chance and that which Labor is proposing is that, instead of high-poverty areas, we could target high-crime areas; and, instead of a \$25 million program funded by Labor, it would be a \$200 million a year program funded out of the Violent Crime Reduction Trust Fund.

We have some concerns about this proposal. First, although we like the concept, OMB has already oversubscribed the Violent Crime Reduction Trust Fund for FY 95, and it will be difficult to make the case in conference that we are negotiating in good faith if everyone knows that we've already spent the money. Second, for this new program to be an eligible expense through the VCRTF, we would need to enact separate authorizing legislation that would have to go through the House Education and Labor Committee. This not only would delay crime bill action, it would prompt a root cause vs. punishment debate that Republicans would welcome in an election year.

Jobs Linkages to the Crime Bill: A second option is to use the Job Corps model in boot camps and other alternative sentences for juvenile offenders. The House already passed such a non-binding amendment to one of the crime bills that passed the House, and it could be expanded and strengthened in conference.

We especially like this option, which bolsters both your anti-crime and job creation efforts. For example, while boot camps -- like the one you pioneered in Arkansas -- have been successful, they have not met the ambitious expectations put forth by their original proponents. One of the ways to improve boot camps is to build on the positive impact they have on participants by continued "after shock" and increased job opportunities. Continued supervision in the form of electronic monitoring combined with Job Corps programs is an excellent example of such an effort. Currently Justice and Labor are examining other crime bill and jobs programs to see what else can be done in this area. We should be able to make these changes in conference without generating intense GOP opposition.

Separate Jobs Bill: Another option would be to push for a targeted FY 94 supplemental appropriations bill -- offset by recisions -- after the crime bill is signed. The bill could include immediate funding for your priority crime programs -- cops, drug courts, boot camps -- as well as a jobs initiative such as the Youth Fair Chance Initiative and Maxine Waters' proposed 17-30 Black male initiative. Having already made our way through the crime bill debate, we would be in the position of putting a crime spin on a jobs bill, instead of putting a jobs spin on a crime bill.

D. Other Agencies

Agencies such as Treasury, HHS and Education have various technical concerns that we are trying to address, such as duplication of already existing programs and assuring proper coordination between agency efforts. We are committed to working with the agencies to remedy as many of these technicalities as possible at the staff level.

5/21/94

December 2, 1993

MEMORANDUM FOR THE PRESIDENT

**FROM: BRUCE REED
 JOSE CERDA III**

SUBJECT: CALIFORNIA CRIME NOTES

You have stated repeatedly that you would like Congress to conference the crime bill -- with more money for police, boot camps and drug courts, and assault weapons ban -- and sent to your desk for signature as soon as possible when they reconvene. While in California, you will have an opportunity to highlight some of the Senate bill's major components.

Policing

Los Angeles may be the most underpoliced city in the country, with about half as many cops per capita as New York or Chicago, less than one patrolling officer per square mile, and more than 9 violent crimes per sworn officer -- 2 - 3 times the national average. The city has been trying desperately to put more police on the streets. In 1992, a ballot proposition to earmark new taxes for new police received 62% of the vote, but fell short of the two-thirds vote required for a tax increase. The city has also turned to the Department of Defense to recruit outgoing military personnel and gone up to Capitol Hill to testify in favor of your community policing initiative. Some have even argued that the city should use surplus funds for Los Angeles International Airport. Recently, Mayor Riordan announced a plan called Project Safety L.A. to reorganize and expand the police force by 3,000 over the next four years, but he is likely to need federal funds.

Los Angeles Police Chief Willie Williams, who was a community policing pioneer in Philadelphia, has made great strides in Los Angeles and been an advocate for more police and community policing. The weekend of the King verdicts, Chief Williams increased police presence by 600 officers -- which not only helped keep the peace, but reduced violent crime by 12% across the city.

The Senate crime bill authorizes a total of \$8.995 billion over the next five years to hire 100,000 new police officers and expand community policing. With the exception of the authorization levels, the policing title remains largely unchanged from your original.

Assault Weapons

As you know, the movement to ban assault weapons took hold after Patrick Purdy opened fire with an AK-47 on a group of schoolchildren in Stockton, California -- and probably reached its high-point this year with the shootings at the Pettit & Martin law firm in San Francisco and the passage of an assault weapons ban last night by a vote of 56-43. The amendment attached to the crime bill represents a compromise reached between Senators Feinstein, DeConcini and Metzenbaum and includes elements from all of their bills. Specifically, the amendment would: (1) ban 19 specific weapons; (2) define additional weapons prospectively restricted by means of an objective test based on physical features; (3) double the penalty for the violation of firearms laws from 5 to 10 years for violations involving assault weapons; (4) expressly exempt more than 650 legitimate (manual and semi-automatic) hunting and sporting firearms; and (5) ban large capacity ammunition clips with more than 10 rounds.

On a separate note: while federal firearms licensing (FFL) reforms were not attached to the crime bill, FFLs are a big issue in Los Angeles County. More than 3,000 (of the 270,000) FFL dealers reside in LA County -- that's more than in any other county in the country.

Last year, the LA Times ran a series on FFL abuses, conducting a random survey of more than 100 local dealerships. Among the many oddities discovered by the LA Times was a man by the name of Charles "Big Chuck" McDonald, who was sentenced to 46 months in prison for illegally selling guns. Despite a questionable past that included serving time in military prison and a dishonorable discharge, Big Chuck was awarded an FFL to sell guns out of his hotel room under the name Chuck's Guns, and he proceeded to sell guns to anyone who "didn't look like a cop." The FFL directive you signed in August calls for ATF to toughen its background checks so that people like Big Chuck don't get FFLs in the first place.

Gangs

Street gangs have long plagued California cities such as Los Angeles and San Francisco. In Los Angeles alone there are more than 1,030 distinct gangs with over 150,000 gang members, and, in 1992, there were 803 gang-related homicides in Los Angeles county alone. Despite the "truce" reported last year violent gang activity continues, and LA street gangs have expanded, reaching nearby cities such as Denver and Kansas City.

The crime bill includes several programs that attempt to deal with the gang problem. First, it includes bootcamps and alternative punishments for young offenders, which can be coupled with drug treatment and testing (\$1.2 billion). Second, it bans juvenile possession of handguns and authorizes \$500 million to build facilities to house violent juveniles. And third, the bill includes a \$100 million in gang prevention grants that are designed to provide alternatives activities to youths immersed in the gang culture.

In your speech during the signing of the Brady Bill, you referenced three individuals who were making a difference. One of those persons was David Plaza, Coordinator for the Gang Alternatives Program in Norwalk, California. Today in Los Angeles County, where 2 children die each day because of gang violence, and where \$1 million per day is spent to counteract gangs, David Plaza is making a difference. Having joined a gang in the 8th grade when he witnessed the drive-by shooting of one of his best friends, Plaza started to turn his life around when he was sent to a youth counseling center several years later and met a former gang member turned anti-gang advocate. By Senior year, Plaza was elected student council president. After graduating from high school, he went to college and got his degree. Now, Plaza teaches a 15-day anti-gang program and works to get gang members off the street. We first learned about Plaza's work when he participated in the U.S. Sentencing Commission's Symposium on Drugs and Violence, speaking on the Commission's "Perspectives from the Street" panel.

Brady Bill

Last Tuesday's Washington Post carried a front-page article on how waiting periods and background checks in four state over the past four years have stopped more than 47,000 persons who were prohibited from buying guns from doing so. California was one of those states. According to state officials, 21,168 sales have been blocked since 1989 in California under its 15-day waiting period.

THE WHITE HOUSE
WASHINGTON

August 3, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN PODESTA *JP*
TODD STERN *TS*

SUBJECT: Police Corps/Crime Bill

Attached is a memo from the Attorney General on the police corps together with memos from Bruce Reed/Jose Cerda and Eli Segal commenting on it. Since the police corps will be a section of the crime bill, the police corps issue must be resolved in order to ready the crime bill for announcement as early as next week.

Here's the situation in a nutshell. There are three basic Police Corps alternatives:

- (1) The full Adam Walinsky proposal, at a cost of \$200 million per year. This is not feasible financially.
- (2) A scaled-back Walinsky plan, at a cost of \$25 million per year, as proposed in our FY 94 budget. Reed/Cerda favor this alternative at this time.
- (3) A Justice Department "community police corps" proposal, at a cost of \$5 million per year.

On the merits, Reed/Cerda do not disagree with the Attorney General, and hold out the possibility of moving in her direction when the House and Senate bills go to conference. (Although the plan is to introduce identical bills, they are sure to be amended in different ways in the two houses, which will make a conference highly likely.)

Reed/Cerda also note that it might be possible to develop the police corps in the context of National Service (and consequently drop it from the crime bill in conference), although Eli's memo makes clear that there are still open questions as to (i) whether the National Service program could adequately fill that role and (ii) whether doing so be good for National Service.

Can't find the memo from AG. I'll look for it. I'll also look for the memo from Reed/Cerda. I'll also look for the memo from Eli Segal. I'll also look for the memo from the Justice Department. I'll also look for the memo from the Attorney General.

Reed/Cerda (option 2) seems to make the most sense right now. Option 1 is too expensive and, as the Attorney General says, we need cops on the street, not just in school. On the other hand, option 3 won't work at this time. Although Jack Brooks would prefer it, since he is not a police corps fan, it would create big problems in the Senate, where Senator Kennedy supports Walinsky and Senator Biden defers to Kennedy. The best that we can hope to do for now is to try to persuade Kennedy and Biden to accept our scaled-back Walinsky proposal.

In short, White House staff recommend option 2 for now, holding open the possibility of moving in conference toward the AG's proposal or toward a National Service model, if that proves feasible.

Agree ☒

Disagree ☐

Discuss ☐

Comes to
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denies - That's better
New Ad's - Major



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

93 JUL 30 AM : 36

July 29, 1993

DRAFT DECISION MEMORANDUM FOR THE PRESIDENT

FROM:

JANET RENO
ATTORNEY GENERAL

SUBJECT:

Police Corps

The following compares the positions of Adam Walinsky and the Department of Justice on the police corps concept.

Adam Walinsky's Proposal

Mr. Walinsky proposes to provide a scholarship to each police corps participant of up to \$12,500 per year with a cap of \$40,000 over four years. The participant would then be required after graduation from college to serve as a police officer for four years. Police corps participants must commit to only four years of service. (Participants in the first two years of operation need only commit to two years.) It takes four years for an officer to become a seasoned member of the police force. \$5,000 per year per graduate for up to five years would be paid to law enforcement agencies as a hiring incentive. Monies would be targeted for 16 weeks of training in addition to whatever law enforcement related education the person chose in college. After expenditure of these dollars, we would not have police officers on the street to show for it. Communities would still have to come up with the funds to hire them. This would be a huge burden, as the national average for salary, benefits, training and equipment for a new police officer is approximately \$50,000.

Department of Justice Proposal

The Department would prefer to use our limited resources to provide direct grants to communities to enable them to actually hire new police rather than just sending them to school. We need police on the streets now. Police groups have advised that there is no lack of well-educated candidates to become police officers. If the goal is to produce a better educated police force, scholarships for career officers would be a more effective means of achieving this goal if we had the money.

We do not have enough money to achieve your promise of putting 100,000 police officers on the street, but in case you want to provide money for scholarships, an alternative police corps proposal has been developed by the Department of Justice, in consultation with the Domestic Policy Council staff. This version would cost \$25 million over five years, provide scholarships to aspiring police officers, and build partnerships between educational institutions and law enforcement agencies to address local needs. It would also assure qualified participants of jobs upon graduation.

Another option would be to augment the police corps concept already incorporated into the National Service program legislation.

You should also know that virtually every major national police organization opposes Mr. Walinsky's police corps proposal.

In summary, I think the facts stated above relating to each approach to police corps strongly suggest that the Administration support for the Department of Justice or National Service version of police corps.

DECISION

Option A:

Support the Department of Justice Police Corps Proposal:

☐ Approve ☐ Approve as amended ☐ Reject ☐ No Action

Option B:

Support the National Service Police Corps Proposal:

☐ Approve ☐ Approve as amended ☐ Reject ☐ No Action

Option C:

Support the Adam Walinsky Police Corps Proposal:

☐ Approve ☐ Approve as amended ☐ Reject ☐ No Action

THE WHITE HOUSE
WASHINGTON

July 30, 1993

93 JUL 30 P5:34

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA III

SUBJECT: FINAL DECISIONS ON THE CRIME BILL

As outlined in a previous memorandum to you, we believe that the crime bill should include a down-sized Police Corps, not the Justice Department's new Community Police Corps. But whether you accept our suggestion or Justice's -- the most important thing is not to let this or any other issue slow down or jeopardize quick introduction of a crime bill.

Last week, Senator Biden and the National District Attorneys Association finally reached an agreement on the crime bill's habeas provisions. The State Attorneys General are also on board. We are prepared to proceed with the announcement of a joint Biden-Brooks crime bill the first week of the August recess. The bill will include: (1) a community policing title that will put 50,000 new police on the street over the next five years; (2) boot camps; (3) federal death penalty; (4) habeas corpus reform; (5) the Brady Bill; and (6) the Police Corps.

We have reached agreement with the Justice Department, OMB and House and Senate Judiciary Committee staff on a bold community policing initiative that will be the centerpiece of the crime bill. It provides grants to cities and states to put 50,000 new police officers on the street over the next five years. The other 50,000 of your 100,000 pledge will come from (1) the FY 1993 supplemental appropriations bill you signed last month, which included \$150 million for community policing; (2) National Service, which will make up to one-fourth of its slots available for law enforcement and crime prevention efforts; (3) HUD's COMPAC program for public safety in public housing; (4) the Education Department's Safe Schools Initiative; (5) a joint Labor-Defense Troops-to-Cops initiative; and (6) community investment funds targeted to Empowerment Zones.

The one remaining policing issue is the nature of the Police Corps. All parties (except Adam Walinsky and the staunchest Police Corps proponents) agree that the Police Corps is not the most cost-effective way to put new police on the street, and that its funding should be scaled back. We recommend that funding for the Police Corps be scaled back to \$25 million per year, as you proposed in your FY 1994 budget. The Justice Department wants to cut funding still further, to \$5 million a year, and fundamentally change the nature of the program.

In the attached memorandum, the Attorney General has outlined three options on the Police Corps. Here is our assessment.

1. Justice's Community Police Corps

The Justice Department substitute would create a Community Police Corps that would provide grants to a handful of local police departments to allow them to offer scholarships to prospective police recruits as well as to current officers. Chiefs of Police, police unions and cities would prefer such a locally-based proposal. But Justice has yet to persuade Senator Kennedy and the Police Corps' many other friends in Congress to support the DOJ substitute, and Walinsky is already campaigning vehemently against it. Senators Sasser and Specter re-introduced the Walinsky version as a stand-alone bill this week.

2. Walinsky's Police Corps

We think the Attorney General's concerns about the nature of the Police Corps could still be addressed in conference -- the only time Police Corps proponents are likely to agree to changes. We will face an uphill battle if we try to scale back funding for the Police Corps and replace it with our own version at the outset. The Walinsky version passed the House and Senate with bipartisan support last year, and you endorsed it in the campaign. We also fear that unless Kennedy and Biden can be persuaded to support the Justice substitute, we will squander the only good thing to come of having to wait so long for a crime bill, which is that we have an unprecedented opportunity to introduce the same bill in both houses. It could also increase pressure on the two chairmen to differ on more volatile issues, like habeas.

3. National Service Trust Fund

Over the long term, you could resolve this issue by developing a small, but high-profile, Police Corps through the National Service program. One-third of National Service funds are dedicated for certain priority projects to be administered by the National Service Corporation, including professional corps like teachers, nurses and police. The essential elements of the Justice Department's Community Police Corps could be implemented more quickly and in far more communities through National Service -- without further congressional action or funding.

Eli Segal has always been supportive of a public safety component in National Service. Moreover, a national Police Corps would give the National Service program the visible symbol it needs to capture the American people's attention.

We recommend announcing the crime bill the first week of the August recess with the Walinsky language, and addressing the Attorney General's concerns either in conference -- or better yet, by developing a Police Corps proposal through the National Service program that will not require further congressional action.

THE WHITE HOUSE

WASHINGTON

July 31, 1993

MEMORANDUM FOR JOHN PODESTA

FROM: Eli J. Segal *ELJ*

SUBJECT: National Service and Police Corps
(Attorney General Reno's memo of July 30)

Introduction

The Attorney General's memorandum concerning the Police Corps prominently discusses national service. While I am not an expert on the police, it is clear to me that before any decision is made regarding national service and law enforcement, both the President and the Attorney General should be briefed on the options for law enforcement within national service. This memorandum summarizes my understanding of the possibilities; I am happy to work further with the Department of Justice and the Domestic Policy Council. Rana Sampson, a White House Fellow working at the DPC and a former police officer, has worked closely with us and is our point person in this area.

The opportunities for national service to contribute to law enforcement fall into two categories.

Non-sworn police work

Because the national service initiative is oriented primarily toward pre- and non-professional service, most openings will be for non-sworn police aides. In cities like San Diego and New York, such "national service officers" have already made a real impact, assisting in community policing and freeing other officers to become beat cops.

While there will be considerable opportunities for such placements under the legislation, the number of law enforcement placements will depend on the emphasis established by regulation. If national service were very heavily focused on law enforcement, it could generate 50,000 such non-sworn placements over three years, with correspondingly fewer placements in education, the environment and health. (I do not know whether such NSOs would appropriately count toward a 100,000 goal.) There is no need for a decision now, but it will be helpful for our planning purposes to know how strong an emphasis on law enforcement placements is desirable.

Professional Police officers

There will be limited opportunities for police officers through the national service initiatives: only one-third of the program funds may be dedicated to positions paying more than twice the minimum wage, and in such instances, the Federal government will not pay any salaries or benefits. The national service program, then, could offer one or two years of loan repayment (at \$4725 a year) and training to prospective police officers.

National service would allow for a much cheaper version of the Walinsky police corps. I imagine that our educational award would provide a modest inducement for college graduates to become police officers (if that is important), and that the training would provide some aid for localities in defraying the costs of hiring (whether enough, I do not know). National service, however, cannot require a commitment or offer an award greater than two years; that may present an insurmountable obstacle to the program's working.

Once again, if these placements are feasible, the President could decide to put a heavy emphasis on achieving them. Over three years at full funding, national service could supply as much as \$500 million for these purposes, or enough for 30,000 two-year terms. The cost would be fewer placements as teachers and fewer innovative national programs.

THE WHITE HOUSE
WASHINGTON

July 29, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA

SUBJECT: Keeping Your Pledge on 100,000 Cops

The community policing program was preserved, even strengthened, in conference. The crime bill conference report authorizes nearly \$9 billion over 6 years -- enough for you to credibly say that we will be able to put 100,000 more police on the street. We also made changes in conference that will give cities like Houston and New York more flexibility to try different ways to expand the number of police on the street.

I. MAJOR PROVISIONS OF THE COMMUNITY POLICING PROGRAM

The final crime bill authorizes \$8.995 billion over the next 6 years out of the Violent Crime Reduction Trust Fund for community policing. That works out to almost an even swap -- a reduction of 100,000 positions in the federal bureaucracy is enough to pay for 100,000 more police, which is exactly the promise you made in your acceptance speech at the Democratic Convention.

1. How the Program Works: The money will be divided equally among large and small cities: half goes for cities with populations over 150,000, the other half for cities and towns under 150,000. The bill provides \$450 million for technical assistance and evaluation. As in our pilot program, the Administration will award policing grants on a competitive basis. With \$9 billion, we should be able to meet the full demand for new police.

The program will emphasize new hires, with some flexibility for cities that want to redeploy their current force. At least 85% of the grant funds must go to hire, rehire, and train new police officers. Communities are encouraged to use these funds to hire former members of the Armed Forces to serve as community policing officers, particularly in areas where a military base has closed. At the Attorney General's discretion, the remaining grant funds -- up to 15% -- can be used to promote community policing in other ways: redeploying existing officers (through overtime, new equipment, etc.), developing new technologies, and offering specialized training to officers.

2. Added Flexibility: To give cities even more flexibility and make it easier for them to put more police on the street faster, we added a provision that for the first three years of the program will allow cities to use some of the money from the 85% hiring pot for innovative strategies to redeploy existing officers, so long as they can demonstrate that doing so will put more police on the street. New York City, which has already expanded its police force, will be able to purchase the technology for a paperless arrest system that will allow the department to increase its street presence by at least 300 to 400 officers. Houston, which used overtime to put the equivalent of 655 officers on the streets within 90 days and cut crime by 22% in 2 years, will be able to expand that effort. To keep overtime from eating up the whole program (and make sure that we're not accused of hiring 100,000 secretaries instead of 100,000 cops), this provision expires after three years and is limited to a maximum of 20% of the grant money in FY95 and FY96 and 10% in FY97.

Mayors like Lanier and Giuliani are very happy with the added flexibility, as is Schumer, who pushed hardest for it. So, too, are police chiefs from major cities -- such as New York's Bill Bratton and Chicago's Matt Rodriguez -- who are committed to making your program work. Last week, the mayors who earlier expressed doubts about the community policing program -- Lanier, Rendell, and Giuliani -- sent us strong letters of support.

3. How We Can Reach 100,000: Policing grants will be awarded for three to five years, with a declining federal match that will average between 50% and 75%, depending on a city's size and salary levels. The federal share is limited to a total of \$75,000 per officer over the life of the grant. Cities with higher costs or limited resources may apply for a waiver of the federal match. (In the pilot program, only 4 % of all applicants applied for such a waiver.) Per officer costs vary widely from city to city, but our best national estimate is that it costs on average about \$42,000 per year in salary and benefits for each new officer.

Based on these formulas, Justice projects a total of at least 99,000 more police on the street over the next 6 years: a minimum of 88,000 new hires and rehires; another 9,000 more police on the street through redeployment; and over 2,000 new hires and rehires from grants already awarded through the pilot program.

We actually have the potential to exceed 100,000. Justice will have the discretion to use money from the "up to 15%" pot to provide grants for hiring as well as equipment and redeployment -- enough to hire or redeploy up to 17,000 more police. The conferees also authorized \$400 million for the Police Corps, which could provide another 10,000 new officers (but that authorization is not guaranteed out of the Trust Fund, and will remain a contentious issue in future appropriations). We will also help communities put more police on the street by providing up to 25,000 public safety volunteers through National Service, expanding public housing police through the proposed COMPAC program, and giving schools money for police and security guards through Safe and Drug-Free Schools legislation.

II. MAKING SURE THE PROGRAM SUCCEEDS

The crime bill gives us the authority to put 100,000 cops on the street, but to actually achieve that goal, we will need to focus the Administration's efforts in three key areas:

1. Appropriations: In theory, the crime bill is fully paid for -- the Trust Fund authorizes the use of savings realized from the Federal Workforce Reduction Act. But crime bill expenditures are still subject to appropriation, and we can expect resistance from appropriators down the road if money remains tight. So far, we've done relatively well. Last year we asked for \$200 million and got \$150 million. This year we asked for \$1.7 billion and both houses have given us over \$1.3 billion. Community policing will need to remain one of your highest priority investments if we're going to achieve 100,000 cops.

2. Cop Czar: Administering all the grant programs in the crime bill will be an enormous challenge for the Justice Department. With \$30 billion to spend over the next 6 years, the Violent Crime Reduction Trust Fund will have a larger annual budget than two Cabinet agencies -- Commerce and the State Department. The selection of someone to run the community policing program at Justice should be given the same careful attention as a Cabinet appointment, even though it doesn't require Senate confirmation. The Justice Department is developing a list of candidates, including some chiefs who have been at the forefront of community policing. Your cop czar needs to be someone of unquestioned integrity who has the backbone to use this program not just to give away money, but to fundamentally change the way police forces around the country do business.

3. President's Council on Policing: If we're going to bet \$9 billion on a single idea -- community policing -- we've got to preserve and protect the integrity of the idea, and help ensure that it works. The success of this program, more than anything else we do, will affect whether crime goes up or down on your watch. It won't do us any good to have put 100,000 cops on the street if crime doesn't go down, if people's sense of personal security doesn't go up, and if departments dismiss community policing as just one more hoop they have to jump through to get money. We need to hold departments to high standards in return for our grants to ensure that they really do change, and when we find something that works in one community, we ought to help spread the word to others.

One way to make sure that happens, and to see that it gets the highest level of attention from the Administration, would be for you to meet periodically with a group of law enforcement leaders from around the country. This group could serve as a kind of Joint Chiefs of Staff for the war on crime, and allow you to work directly with those on the front lines to see that we're doing all we can. At the same time, you might consider having periodic briefings on personal security with the Attorney General, the Drug Director, and the FBI Director. Restoring Americans' sense of personal security will take the same determination and attention you devote to issues of national security.

8.11.94

August 11, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: Punishment Provisions in Crime Bill

The crime bill includes several tough criminal penalties for violent and gun offenders, as well as substantial funds for state prisons, boot camps, and criminal alien incarceration. Forty percent of the prison money is tied to truth-in-sentencing requirements. The major provisions are:

I. PRISONS

* Prison Funds: The crime bill includes over \$10 billion for prisons -- more than any other provision in the bill, and more than any other crime bill in history.

* Truth-in-Sentencing Requirements: 40% of the prison grants must go to states that enact truth-in-sentencing laws which require violent offenders to serve at least 85% of their sentence.

* Criminal Aliens: The bill includes \$1.8 billion to reimburse states that incarcerate criminal aliens.

II. PENALTIES

* Three-Strikes: Effective immediately, the bill will impose life imprisonment on any offender who commits a serious violent felony under federal law, after having been previously convicted of two or more serious violent felonies under either federal or state law.

* Violent and Gun Offenders: The bill includes new minimum sentences for violent and gun offenders, including enhanced penalties for using a semiautomatic weapon in a violent crime or in drug-trafficking.

* Death Penalty: The bill will extend the death penalty to more than 60 crimes not currently covered, such as the killing of a federal law enforcement officer or a state or local law enforcement officer assisting in a federal investigation.

* Violent Youth: The bill lowers the age at which violent offenders can be tried as adults in federal court to 13, so that serious criminals can expect serious punishment no matter what their age.

*This doesn't explain
how punishment will be
allocated. How much funding
will be for each?*

60 to 62

State from

*1.3 billion sent
to states on
Prison*

ISSUE BRIEFING: PREVENTION

Crime Prevention Programs in the Crime Bill Conference Report Wednesday, August 3, 1994

This is the third of three issue papers discussing the key elements of the President's anti-crime strategy, represented in the Crime Bill before Congress. Just as certainly as we must punish those who break our laws and wreak havoc in our cities, we must also take whatever steps we can to stop crime before it happens. Those who have no hope, no job, no other answer, who know no other way are often drawn to crime and violence. All Americans deserve hope and opportunity; need to know that there is a better answer than crime, and must have the opportunity to go another way.

If we are going to steer young people away from crime and gangs we must, as the President often says, provide them with "something to say 'yes' to": after-school programs, summer youth activities, and employment, sports and recreation opportunities that can take the place of gangs. We can bring community groups, law enforcement officials, and struggling young Americans together in an effort to keep kids off the path to crime.

Key Prevention Programs in the Crime Bill

- The President's Youth Employment Skills program "Y.E.S." will provide young ~~people with job training and opportunities in hard-hit, high-crime areas~~. We believe that neighborhood youths and young adults will say "YES" to jobs and no to crime. And we must work with existing businesses in these areas to encourage them to stay, expand, and hire young people from the community.
- The Ounce of Prevention Council and programs can provide the vehicle for effectively coordinating and integrating the delivery of the Federal Government's new youth development and youth-oriented crime prevention initiatives.
- The Police Partnerships for Children program encourages police officers to make a difference in young lives by becoming involved with children and family services agencies that deal with at-risk children.
- The Gang Resistance Education and Training program ("G.R.E.A.T."), is already a proven success, helping kids fight the allure of gang membership through education.
- The Community Schools Initiative of the Ounce of Prevention Program will provide grants to communities across the country to develop and implement after-school programs for youth, drawing together parents, clergy, social workers, teachers, youth groups, community and business leaders and local officials.

- The Model Intensive Grant Program is a competitive program which will award up to 15 highly targeted grants to support comprehensive crime prevention programs in chronic, high-intensity crime areas.
- The Local Partnership Act will provide grants to thousands of American cities to fund health and educational crime prevention programs.
- The Midnight Sports Program will provide grants to programs designed to prevent youth violence by getting kids off the streets and teaching them sportsmanship, teamwork and conflict resolution.
- Programs to place Boys and Girls Clubs in public housing projects -- which are all too often located in high-crime areas -- can provide young people with a meaningful alternative to gangs, drugs, crime and violence.

Drug Courts

- We will never control crime until we control substance abuse. We must get the hard core drug users -- the 20% of cocaine users who consume over 2/3 of available cocaine -- off the streets and into treatment. Effective, innovative programs, like drug courts use the power of the criminal justice systems to force addicts to kick their drug habits.
 - * Adequately funded and administered drug treatment and coerced abstinence programs are critical to breaking the drug and violent crime cycle that has so heavily burdened our criminal justice system.
 - * The program includes an intensive supervision of the participants by the court, drug testing and treatment, and the prompt application of a series of graduated sanctions for failure to comply with the conditions of the program.
 - * The program can be administered on a pre-trial diversion basis, as a post-conviction probation program, or in combination.

Violence Against Women

- Action must be taken to stop and/or more severely penalize those criminals who prey, intentionally, upon women. New Federal laws and programs in the Violence Against Women Act can help prevent some attacks and improve after the fact restitution for the victims of others.

- * The Crime Bill's Violence Against Women Federal cause of action for gender-motivated violence is both fair and smart. It's fair because it addresses those situations in which victims are without redress due to inadequate state remedies, and allows victims improved access to Federal courts. It's smart because it does not clog Federal dockets by automatically labelling whole categories of offenses as gender-motivated.
- * We should also be focusing on the interstate incidents of criminal abuse and violence against women, recognizing the Federal criminal justice system's role in such matters. The Crime Bill would create appropriate new Federal offenses in this area, such as fleeing across state lines in violation of a "stay away" or protective order.
- * The Violence Against Women Act would enhance the rights of crime victims through provisions including strengthened restitution and extension of the "rape shield law" which protects victims from abusive inquiries concerning their private sexual conduct.
- * By putting money into enforcement, training, and other prevention approaches, we can effectively respond to crime and prevent many crimes. The Crime Bill would fund such efforts as a national domestic violence hotline, anti-stalking programs, and state grant programs to educate college students about rape and violence prevention.

September 12, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: Don Baer
Rahm Emanuel
Bruce Reed

SUBJECT: Draft Statement for Crime Bill Signing

Here is a draft statement for the Crime Bill signing tomorrow.

The speech has three objectives: to define the bill in clear, moral terms as a way to bring America's laws back in line with Americans' values; to remind people that changing laws won't be enough unless they take personal responsibility for their families and communities; and to announce what we're doing right away to get communities the tools they need to fight crime.

The Vice President will speak first, and make all the necessary acknowledgments. You are the only other speaker on the program.

If you have any thoughts on this draft, please let us know.

**Statement of the President
Crime Bill Signing
September 13, 1994**

DRAFT 9/12

The American people have been waiting a long time for this day.

Over the last twenty-five years, half a million Americans have been killed at the hands of other Americans. And the system that is supposed to punish criminals has made excuses for their behavior.

Over the last six years, children have become the most likely victims of violent crime in America as well as its most likely perpetrators. And politicians on the left and the right have made excuses for doing nothing.

And over the last two years, we watched as Meghan Sposato lost a mother she never knew, as Polly Klaas lost her life to a felon who should never have been back on the streets, and as James Darby lived in fear for his life only to lose it walking home. And some in Washington still tried to keep this day from happening and make excuses yet again.

Today, at last, the waiting ends. The bickering stops. The era of excuses is over. The law-abiding citizens of this country have made their voices heard: Never again should people in Washington put politics and party ahead of law and order. The single most important right our system must protect is every American's right to feel safe.

Not so long ago, kids grew up knowing that if they broke a neighbor's window playing baseball, they were going to have to own up to it, and pay to get that window fixed. They knew that they'd be in trouble if they lied or stole, because their parents and their teachers and their neighbors cared enough to set them straight. And everybody knew that if someone committed a serious crime, they were going to be caught, and convicted, and serve their time in jail. The rules were simple, and people followed them -- and the punishment was swift and certain for those who did not.

Now, too many kids don't have parents who care about them, and gangs and drugs have taken over our schools. Most criminals don't even get caught, and every day you can pick up the paper and read about another criminal who has literally gotten away with murder.

The American people haven't forgotten the difference between right and wrong. The system has. Today, with this Crime Bill, we bring the laws of our land back in line with the values of our nation. And we begin the long, hard work to restore the clear line between right and wrong.

I have always said that I'm here to fight for the people who work hard and play by the rules. Well, here are the rules: People who commit crimes must be caught, convicted, and punished, and those who commit violent crimes must be punished severely. The bill I'm about to sign says that criminals ought to serve the full sentences imposed on them; repeat

violent offenders should spend their lives behind bars; and the most heinous criminals, who take a life, should pay with their own.

Young people must learn the difference between right and wrong, and need role models to look up to. The bill I'm about to sign will make sure that young people who want to avoid trouble have a place to go -- and that young people who break the law will be punished for it.

Perhaps most important, it is time for us to stand up for the brave men and women who put their lives on the line to protect us every day. In the struggle for our streets, there must be no doubt at all about which side we are on. The bill I'm about to sign puts the government on the side of the police, not the criminals; on the side of the victims, not their attackers; and on the side of those who abide by the law, not those who break it.

That's what this Crime Bill is all about. That's why the police and prosecutors and preachers fought so hard for it, that's why the American people demanded that Congress pass it, and that's why I am so proud to sign it into law today.

When I sign this bill, "three strikes and you're out" will become the law of the land -- and the penalty for those who kill a law enforcement officer will be death.

With this law, we will cut the federal bureaucracy by 270,000 positions -- to its lowest level in 30 years -- and use the savings to put 100,000 more police on the streets and build prisons to keep 100,000 violent criminals off the streets.

With this law, we'll make it illegal for juveniles to own handguns -- and make it a crime for anyone to carry or sell deadly assault weapons that have no place on our streets.

With this law, we'll give our young people something to say yes to -- places to go after school where they are safe and supervised, where teachers replace gang leaders as role models and steer kids away from drugs and gangs and guns.

With this law, we'll launch a new attack on violence against women -- to make women safer in their homes, in their neighborhoods, at work or at school.

And with this law, we will say to our police who arrest criminals, and our prosecutors who convict them: there are going to be the prison cells to lock up violent offenders, and to keep them there for a long, long time.

But, my friends, even this law -- the toughest, smartest Crime Bill in history -- cannot do the job alone. Because even if this law puts a new police officer on your block, that officer can't make your street safe again unless you come out of your home to help.

Even if this law takes thousands of violent criminals off the streets, the crime and violence will not cease unless you and your neighbors decide that you will not tolerate it in your community anymore.

Even if this law helps the schools in your town stay open late and gives your children an alternative to drugs and gangs, your children won't learn the difference between right and wrong unless you teach it to them.

Government can restore order to our streets. But government cannot repair disorder in our souls. Every American has the right to feel safe, but our country will only become safe again if every American lives up to their responsibility for themselves, their families, and their communities.

The hard work of passing this law is over, and now the hard work of making a difference in every community must begin. Today, I am naming Vice President Gore, whose reinventing government report a year ago first proposed the reductions in bureaucracy that will go to pay for this bill, to head the President's Prevention Council. I have asked him to work closely with every department to ensure that we carry out a coherent, cost-effective effort from the White House to give communities the tools they need to prevent crime. In a few weeks, I will name a community policing expert from the front lines to head our program to put 100,000 police on the street, and in the very first month of the Crime Bill, the Justice Department will award grants to put 2,500 new police on the street in cities and towns that applied last year. And in the coming months, Vice President Gore and I will hold a series of forums about crime and violence across the country, culminating next year with a meeting here at the White House, to talk with people at the grassroots whose values and common sense guided this Crime Bill every step of the way.

Today, we remember thousands of police officers who have given their lives to make our nation safer, whose names are inscribed in a stone memorial just a mile away from here. We remember the countless innocent victims whose lives were lost and whose families were shattered by the scourge of violent crime.

And we remember in particular three victims -- James Darby, Polly Klaas, and Jody Sposato -- whose tragic deaths galvanized a nation and shamed our political system into action. It is in their memories that I dedicate this bill, and with a profound prayer that these tragedies not be repeated, that I sign it. I hope this law will always be remembered in their names.

Today, the will of the American people has triumphed over a generation of political paralysis and division -- and given us a chance to work together in the same spirit, without regard to party, to solve our other problems. Now, in that spirit, let us dedicate ourselves to restoring the same basic values. Let us restore the sense of right and wrong that built this country. And let us make it safe again for all our people.