THE WHITE HOUSE

WASHINGTON

December 6, 1997

MEMORANDUM FOR THE PRESIDENT

CC: THE VICE PRESIDENT

FROM: GENE SPERLING
TOM KALIL

RE: TEACHER TRAINING FOR TECHNOLOGY

Summary:

Making sure that teachers have the skills they need to use technology effectively in the classroom is critical to the success of your Educational Technology Initiative. As you noted recently, "I met with a group of young people yesterday in their 20s who said .. 'What difference will it make if you connect every classroom in the country to the Information Superhighway if the teachers aren't trained to use the technology and the kids know more than they do? " Although teacher training has always been a part of your four pillars (along with connecting classrooms, computers, and educational software) -- the press has tended to focus more on the goal of wiring the schools. We believe that a new initiative is needed to shine the spotlight on teacher training - and set national goals that are both important and achievable.

At this point, we would like your approval of the proposed policy, and not a specific budgetary commitment. Although we think that this initiative will require some new investment, the decision on the exact funding level should be made in the context of the overall FY99 budget discussions.

We believe that it is particularly important to launch this initiative next year - because schools will begin to receive up to $2.25 billion in discounts to connect to the Internet in 1998. Unless we have an initiative that also addresses teacher training, we risk a "backlash" against the overall program.

We also think that there is support from the Congress for doing more on teacher training for technology. This year, Senator Bingaman added $30 million to our competitively awarded "technology innovation grants" to focus on professional development.

Why an initiative in teacher training is needed

The overwhelming conclusion of press and expert analysis of your Educational Technology Initiative is that teacher training is critical to the successful use of educational technology, and that more needs to be done in this area:

- A 1995 OTA study, *Teachers and Technology: Making the Connection* concluded that "helping teachers use technology effectively may be the most important step to assuring that current and future investments in technology are realized" and that "most new teachers graduate from teacher preparation institutions with limited knowledge of the ways technology can be used in their professional practice."

- The President's Committee of Advisors on Science and Technology (PCAST) concluded in 1997 that "the substantial investment in hardware, infrastructure, software and content that is recommended in this report will be largely wasted if K-12 teachers are not provided with the preparation and support they will need to effectively integrate information technology into their teaching."

- In 1994, the latest year for which data is available, only 15 percent of all elementary and secondary teachers had at least 9 hours of technology training.

- In 1996, according to the National Center for Education Statistics, only 15-20 percent of teachers are regularly using advanced telecommunications for curriculum development, professional development, and teaching.

National goals and initiatives to help meet those goals

We think that it makes sense to set the following national goals, and to establish initiatives that are based on meeting these goals. Below are some proposals, although obviously we will continue to work to refine them.

Goal 1: All new teachers entering the workforce should be able to teach effectively using technology

Rationale

- Over the next ten years, 2 million new teachers will need to be hired. Although there is a high attrition rate, many of these new teachers will be in the workforce for a long time. It makes sense for 21st century teachers to have 21st century skills.

- Currently, most colleges of education do not adequately prepare teachers to use technology.

Initiative

(1) Sponsor regional "summer institutes" -- at least one in each state -- that would ensure a significant number of all new teachers can teach effectively using technology. This requires both (a) an understanding of the mechanics of using computers, the Internet, and software applications; and (b) an understanding of how technology can be integrated in to the curriculum, and the new styles of teaching and learning that are enabled by technology. When combined with other efforts (new state teacher certification requirements, efforts by leading colleges of education, and private sector activities) - we think it is possible to reach the goal of training every new teacher.

Although "summer institutes" is one possible approach, it may make sense to give states the flexibility to propose other approaches, as long as they make significant, measurable progress towards the goal of training all new teachers.

Some of the requirements of the program might include:

- A focus on people who will soon be entering the workforce as new teachers (e.g. juniors and seniors in colleges of education) -- and faculty at colleges of education, which would strengthen the capacity of colleges of education;

- Matching funds from the private sector and non-federal sources (we think that private sector companies may be willing to donate equipment and software);

- A competitive selection process that selects at least one grant per state, and possibly more for large states; and

- Support for ongoing computer networks that allow new teachers and experienced teachers to continue to communicate with each other, ask questions, and share best practices. [Studies show that this is critical to maintaining momentum and excitement generated by an intensive summer workshop.]

(2) Support for consortia that make it easier for teachers to use technology in subjects that the Administration has made a priority (e.g. math, science, and reading). These consortia might include colleges of education, the private sector, professional societies, and subject matter experts, and could pursue projects such as:

- Make it easier for teachers and students to find high-quality resources on the Internet [Today, a new teacher doing a search on "Newton's Laws" on the Internet would get over 10,000 responses!];

- Coordinate the efforts of thousands of teachers and subject matter experts to contribute quality, Internet-based educational resources;

- Develop high-quality training materials in specific subjects that could be used at the summer institutes, or during the course of the school year; and

- Evaluate commercial software.

Goal 2: **Every elementary and secondary school should have at least one teacher that has significant training in the use of technology that can in turn train other teachers**

Rationale

- Ensuring that every school has one teacher that is adept in the use of technology could serve as a catalyst - especially if the initiative helps "train the trainers." (This is similar to our strategy for having at least one Board-certified teacher in every school).

- Currently, the Technology Literacy Challenge Fund allows but does not require states to invest in teacher training. Experts believe that educational technology efforts should spend at least 30 percent on professional development. Few states and local school districts do this -- because teacher training is not as "tangible" as purchasing hardware, software, and Internet connectivity.

Initiative

- Direct states to use 30 percent of the Technology Literacy Challenge Fund to provide intensive training to at least one teacher per school, and require that teacher to train his or her colleagues.

- States would have flexibility as to how to achieve this goal. It would tie in nicely with the "summer institute" program, since this could provide a mechanism to train existing teachers as well as new teachers.

Funding

We believe that the initiative to train all new teachers will cost $100 million in new money. The cost of training one teacher per school is roughly $100 - $125 million. This could be financed through a combination of increasing the Technology Literacy Challenge Fund from $425 million to $475 (as proposed in the current OMB passback) and using some of the base funds. This would attach some more strings to a program that has been a formula program, but we think that this is reasonable, given the importance of teacher training. We are not seeking a decision on the funding in this memorandum - this proposal needs to be weighed against competing priorities.

Bully pulpit

We also believe that the Administration can make progress on these goals through use of the bully pulpit. For example:

- During your speech to the National Board for Professional Teaching Standards, you urged the board to make the use of technology a part of their standards.

- Equally important, every state sets their own requirements for certification and recertification of teachers. You can challenge the Governors and the Chief State School Officers to work with their State Boards of Education to set the standards for teachers technological literacy. [One good example is the State of North Carolina that now has performance standards in use and integration of technology for both new teachers and for every teacher as their recertification period comes up.]

- Obviously, educators also need to be integrally involved in this initiative. After a slow start, the 21st Century Teachers initiative that you announced is beginning to gather momentum.

- You could also challenge the private sector to "adopt" colleges of education (those that lack technology resources and infrastructure) and schools, and to work with them to create teacher preparation programs for the 21st century.

Finally, this initiative links to our proposals for Title V of HEA, which are designed to strengthen teacher preparation programs.

Recommendations

This initiative is supported by Education and OVP. DPC and OMB have provided comments.

THE WHITE HOUSE

WASHINGTON

December 6, 1997

MEMORANDUM FOR THE PRESIDENT

CC: THE VICE PRESIDENT

FROM: GENE SPERLING
TOM KALIL

RE: LEARNING ON DEMAND

1. The vision

The skill demands in the workplace constantly change, but today they change at an even faster pace than anyone ever anticipated. Workers need to be able to keep up with the skill demands. Employers continually complain that they can't find workers with the skills they need. There are ways using today's developing technology to help address those needs for lifelong learning. In particular, technology can help those who, for a variety of sound reasons, cannot avail themselves of training through the traditional post-secondary setting. For example, it can help those who are disabled, those with family demands, those who are frequently on travel, or those in rural areas without access to post-secondary training.

We believe that our policy should have the following objectives:

- To enable adult learners to find information easily on the skills they need to advance in or change careers, and compete for higher-wage jobs.

- To expand opportunities for lifelong learning for all adults by creating pathways for them to tap into "learning on demand" delivered by a variety of institutions using new technologies such as the Internet, CD-ROM, interactive TV, and satellite.

- To advance the use of technology through the use of existing grants, loans, and tax credits in the "learning on demand" environment.

- To establish mechanisms for ensuring that the employer and the student have confidence that the degree or certificate program will provide worthwhile skills.

Although much distance learning already exists, the federal government can play a unique role in complementing current efforts by providing a catalyst to support exemplary, high-quality, disciplined and evaluated pilot projects. In addition, many of these entrepreneurial activities, at the start-up phase, often lack the resources to achieve excellence. We propose below a $50 million pilot to start in FY 1999 to test one or more models or their variations. Below we discuss a few examples of current projects, some of the options that we have under existing laws and programs to promote learning on demand, and a few examples of the areas where we believe experimentation would be most useful.

This proposal was developed with input from OVP, DPC, OMB, and the Departments of Education and Labor.

2. Existing initiatives:

We are confident that this initiative will find willing partners in higher education, industry, and organized labor. For example:

- Since 1995, the Western Governors -- with leadership from Governor Roemer -- have been working to design a "Western Governors University." Some of the goals that they have identified include:
  - -- providing a means for learners to obtain formal recognition of the skills and knowledge they acquire through advanced technology-based learning at home, on the job, or through other means outside the formal educational system; and
  - -- shifting the focus of education to the actual competence of students and away from "seat time" or other measures of instructional activity.
- The State of Michigan, Michigan State University, the University of Michigan and other Michigan colleges and universities have recently formed The Michigan Virtual Automotive College. It began offering courses in the fall of 1997 that are targeted to the Big 3, automotive suppliers, UAW, and people interested in getting jobs in the automotive industry.
- The Colorado Electronic Community College was founded in 1995 to broker the courses offered by its 13 college state-wide system. Course work is delivered by a variety of technologies including print, videotape, audiotape, cable broadcast, Internet and CD-Rom. Communication such as presentations, discussions, study groups, with classmates and faculty occurs through a voice-mail system and e-mail. CECC has a multi-million dollar digital video and multimedia production and training facility located at the former Lowry Air Force Training Facility, which has been converted into a higher education center at Denver, Colorado.

3. Federal initiatives

There are a number of concrete steps that we can take to promote "learning on demand." These include:

1. **Allowing people to use financial aid and other forms of assistance for distance learning**:

- The Department of Education is seeking changes in the Higher Education Act that would eliminate the differences in the "cost of attendance" calculation that currently exist between distance learners and on-campus learners. Currently, distance learners are not allowed to include costs for computers and other equipment in the determination of student aid.

- The Department of Education is interested in establishing an experimental program with several institutions to try different models for determining student aid eligibility for distance learning, while still ensuring quality and protecting public funds.

- We also think it make sense to review other financial aid programs, training programs, and tax credits (e.g. workforce development legislation, life-long learning tax credits, Section 127) to make sure we are not inadvertently discriminating against distance learning. A Presidential Memorandum has been drafted that calls for a review of the appropriate use of technology by training and education programs.

2. **Sponsor "virtual university" pilots with a focus on high-quality adult learning**

We think that it makes sense to have a small pilot program that encourages experimentation with new partnerships for providing "learning on demand," particularly for adults. This competitive grant program, with an FY99 budget of $50 million, could have portions administered by Education and Labor, and could fund experiments in the following areas:

a. **Support services for adult learners**: Some adult learners may be totally self-sufficient, and able to search the Internet catalogs of multiple virtual education providers. Others (those making the transition from welfare to work, dislocated workers, under prepared learners, those with no prior college experience) may need a range of services -- including assessment, counseling, help in navigating through the range of options, selecting appropriate courses and programs, and rigorously monitoring their progress.

b. **A degree that's a ticket to a high-wage job**: Curriculum and software developers and the assessment industry need to know what competencies are required for specific and education and training programs. This is particularly important in a virtual environment where "seat time" is no longer relevant. This requirements could be developed by representatives from employers, professional associations, professional licensing or credentialing organizations, and educational institutions. For example, the Western Governors University is teaming up with the electronics industry to define an associates' degree for electronics manufacturing. This could build on the work of the Skills Standards Board, which has started some work on identifying competencies needed in different industries.

c. **Jump-start the market for high-quality software and networked courses.** Currently, the lack of "economies of scale" often prevent commercial publishers and other institutions from investing the amount of money that would be required to develop high-quality educational software and other distance learning offerings. These economies of scale are incredibly important for software and other information technology products - which often have high fixed costs and low marginal costs. Critical mass might be achieved by encouraging a consortia to share courses, instructional material, or software to avoid duplication, and combining existing offerings to offer complete certificate or degree programs. Partnerships between commercial publishers and universities would also be encouraged, given that instructional software is often used only by the individual professor that developed it.

3. Making the government a better user of technology-based training

The government could help accelerate the development of this market by being a leading user of technology-based training. The Department of Defense is the agency most likely to be able to influence the market. Every year 1.5 million people "graduate" from 30,000 different DoD courses at a cost of $15 billion and 159,000 student-years. DoD has been a leader in the use of simulation technology for training. Currently, however, only 4 percent of courses involving specialized skill training are using new learning technologies. DOD has an initiative underway to dramatically increase the use of learning technology to reengineer a large number of courses in subject areas which are also relevant to industry (such as avionics, vehicle maintenance, information technology and electronics).

4. Create the "Learning Exchange."

One of the problems facing the use of technology for lifelong learning is the absence of a national market and information source for training. In a recent report on workplace change by the American Society for Training and Development, one of the primary recommendations was for the federal government to "encourage the maintenance of institutions, networks and systems that support and facilitate access to information on work-related learning." In partnership with DOD, a consortium of states, and the Council for Excellence in Government, the Department of Labor has launched a project to create a national training network that will make it easier and cheaper for individuals and businesses to locate, access, and invest in education and training. This beginning effort can be supported through existing resources. To the extent that the launch is successful, rapid expansion could be supported as part of the "learning on demand" initiative.

This will build on the highly successful "America's Job Bank" -- which has been accessed 188 million times in the last six months.

Potential risks

- Although many in higher education are excited about the possibilities to promote distance education, others are concerned that it could undermine traditional campus-based instruction. We would have to make it clear that what we are advocating is not an elimination of the campus (which is very important for socialization, face-to-face interaction, etc.)

- As we move towards an online environment, issues surrounding quality assurance and assessment become even more important. We would need to work carefully to avoid the "waste, fraud and abuse" issues that have surfaced in the use of student aid for proprietary and correspondence schools, for example.

- Focusing on remote learning could reduce attention to the fact that certain parts of the workforce need face-to-face services, such as guidance for new training and skills acquisition.

Recommendation

This proposal is supported by OVP, DPC, Education, and Labor. We have also incorporated comments from OMB.

THE WHITE HOUSE

WASHINGTON

December 6, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MIKE COHEN

SUBJECT: Education Opportunity Zones

This initiative, which you discussed in your Town Hall meeting earlier this week, would designate from 20 to 40 urban and rural school districts as Education Opportunity Zones. This initiative has a strong focus on standards, accountability, and performance. High-poverty urban and rural school districts would be eligible for federal funding under this proposal *if* (1) they adopt tough reform measures -- like those in Chicago -- that make administrators, principals, teachers, and students accountable for success or failure, and (2) show real improvements over time in student achievement. As proposed, the initiative would cost $320 million in FY 99 ($1.1 billion over five years).

Conditions and Purposes of Funding

To receive funds, local school districts would have to demonstrate that they already have begun to put in place effective reform strategies or raise student achievement, and that they will:

- provide students and parents with expanded choice within public education;

- give schools expanded flexibility while holding them accountable for results, including by rewarding schools that succeed and intervening in schools that fail to make progress;

- hold teachers and principals accountable for quality, including by rewarding outstanding teachers and removing ineffective teachers;

- require students to meet academic standards at key transition points in their academic careers -- i.e., end social promotions.

School districts could use Education Opportunity Zone funds to:

- provide extra help to students who need it to meet challenging standards, through after-school or Saturday tutoring programs and/or summer school;

- provide bonuses to schools that make significant gains in student achievement;

- close down failing schools and reopen them as charter schools, or t urn around failing schools by implementing proven reform models, providing intensive teacher training, and building stronger partnerships between schools and parents, businesses, and community-based organizations;

- provide needed training to teachers and principals; reward outstanding teachers by helping them earn certification as master teachers from the National Board for Professional Teaching standards and providing them with financial bonuses when they do so; and implement programs to identify low performing teachers and remove them if they fail to improve.

Funding Levels

As proposed, the Department of Education would award 3-year competitive grants to 10-20 urban school districts and 10-20 rural school districts or consortia (including districts serving Native American students) selected as Education Opportunity Zones. Each urban Education Opportunity Zone would receive approximately $10-25 million in its first year, and each rural zone would receive from $500,000 to $5 million (for consortia), for a total of approximately $320 million.

The stream of federal support under these grants would be structured so as to ensure that reforms can be sustained over the long term. Continued support in years 4 and 5 would be contingent upon demonstrated success in raising student achievement and willingness to work with similar districts to help them replicate successful reforms. A total of $16 million would be available each year for national activities, such as providing technical assistance, documenting successes, and disseminating lessons learned to urban and rural communities across the U.S.

Outstanding Issues

We are still working with other offices and the Department of Education on a few issues. First, we are trying to develop a component that would give Education Opportunity Zones greater flexibility in the use of <u>other</u> federal education funds as long as they continue to meet agreed-upon performance goals. In addition, we are exploring whether we could fund this initiative under existing authority, rather than seek new legislative authorization.

December 6, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA

SUBJECT: Community Prosecutors Initiative

Over the past month, we have spoken with the National Institute of Justice (NIJ), the National District Attorneys Association (NDAA), and the American Prosecutors Research Institute (APRI) about a new initiative to promote community prosecution as a local crime-fighting strategy. These organizations are eager to work with the Administration to launch a new initiative to promote community prosecution throughout the country. This memorandum outlines such a plan and proposes that you include it as part of your FY 1999 Budget and State of the Union. Because it is designed to target high-crime (often predominantly minority) areas and to increase residents' confidence in the criminal justice system, this idea also can play an important part in your race initiative. DOJ is strongly supportive.

Background on Community Prosecution

Community prosection is the natural next step to community policing. Over the past few years, as thousands of police departments have made the transition to community policing techniques, new demands have been placed on local prosecutors, as well as on the rest of the criminal justice system in general. Local police and community residents have called on prosecutors to take their concerns into account in deciding what kinds of offenders to prosecute. Even more, they increasingly have asked prosecuting offices to dedicate attorneys to work in the neighborhoods, to play a role in solving local crime problems, and to reorient their emphasis from simply processing cases to taking on quality of life issues and preventing crimes from happening in the first place.

Perhaps the best example of the evolution of community prosecution can be found in Multnomah County (Portland), Oregon. As part of an overall strategy to revitalize the Lloyd District of Portland, local business leaders called for a number of private and public actions, including improved lighting, better and more coordinated private security, more police officers and -- surprisingly -- a special prosecutor assigned to the Lloyd District. When government funding could not be obtained for a dedicated prosecutor, the local business community raised the money to pay for a prosecutor themselves. Although this course of action raised legitimate ethical issues and concerned some in the community, District Attorney Michael Schrunk decided that establishing a one-year, neighborhood-based pilot prosecution project was in the public interest; he accepted the funds on the condition that if the project proved successful, the County would provide funding to extend it. Today, Portland has 7 Neighborhood District Attorneys

(NDAs), with all attorneys' salaries paid for out of public funds.

The community's original request for a dedicated prosecutor was fueled by the desire to punish more severely recidivist offenders, and the NDA initially saw his role as making judges aware, during trial and sentencing, of the impact recidivists had on the community. Within a few months, however, the community also asked the prosecutor to do something about prostitution, public drinking, drug use vandalism, street fights, and car thefts. The NDA focused his attention on these issues, many of which were related to an illegal campsite in the area. He implemented a long-term plan, including police sweeps and community action, to address the problem. As a result, the incidence of these crimes in the area has decreased dramatically.

Other prosecuting offices that have embraced community prosecution in some form include: Boston, Chicago, Denver, Indianapolis, Kansas City, MO; New York City, Milwaukee, Austin, and Washington, DC (initiated this past year by former U.S. Attorney Eric Holder). A new federal grant program will enable the Administration to help prosecutors' offices join with their police departments in making use of community-based crime strategies. This investment in community prosecutors also will help build support among police and prosecutors for future initiatives to promote community-based approaches in the courts and corrections system.

Outline of Proposed Initiative

Similar to the COPS program, this proposal calls for \$100 million for FY 1999 (and \$500 million over five years) for the Attorney General to make direct grants, on a competitive basis, to state and local prosecutors for the following purposes:

(1) Community Engagement. To increase substantially the number of local prosecutors interacting directly with members of the community ("community prosecutors" or "neighborhood DAs"); and

(2) Problem Solving. To encourage local prosecutors to reorient their emphasis from the "assembly line" processing of cases to solving specific crime and disorder (quality of life) problems in their communities.

A minimum of 80% of the grant funds (\$80 million) would be used to pay the salaries and training costs associated with hiring or reassigning prosecutors to work directly with police and community residents. Grants would last for 3 years and pay for a maximum of 75% of the costs, with the federal share declining over the life of the grant. A maximum of 20% of the grants (\$20 million) could be used for other non-salary costs, such as:

- developing and implementing innovative programs that permit members of the community to assist prosecutors in crime control and prevention;

- increasing prosecutors' involvement in community activities that are focused on crime control and prevention;

- developing and establishing new administrative and management systems to facilitate the adoption of community-oriented prosecution; and

- developing and implementing innovative, community-based programs that include the courts and corrections systems.

This initiative proposes allocating half of the grant funds ($50 million) to prosecutors' offices serving populations of 500,000 or more persons and the remaining half ($50 million) to smaller jurisdictions. This distribution means that sizable grants of $1 million or more could be made to a majority of the 130 jurisdictions serving the largest metropolitan areas, and that smaller grants (about $50,000 to $75,000) could be made to nearly half the remaining, full-time prosecutors' offices (of which there are about 1,600 total).

THE WHITE HOUSE

WASHINGTON

December 6, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING

SUBJECT: Expanding the Low-Income Housing Tax Credit (LIHTC)

This memorandum details several options to increase the cap on the LIHTC or index it to the rate of inflation. This initiative, along with proposals to raise the number of incremental vouchers, expand homeownership, and strengthen the Fair Lending Law, would build on the housing successes of your first four years.

Affordable Housing and the Low-Income Housing Tax Credit

Enacted as part of the Tax Reform Act of 1986, and made permanent in 1993, the LIHTC offers corporate and individual investors a credit against their federal income taxes based on the cost of acquiring, rehabilitating, or constructing low-income housing. The tax credit produces 90,000-100,000 low-income rental units per year.

Because the LIHTC is capped, inflation is eroding its ability to create a steady stream of affordable housing. Under the Tax Reform Act, a state may allocate tax credits each year totaling 1.25 times the state's population. Since 1986, the purchasing power of the LIHTC has declined by about 45 percent; if the cap had been indexed in 1986, the current credit would be more than $1.75 per capita.

Although conservative Republicans have attacked the credit on the grounds that it is a "corporate welfare," it now enjoys widespread bipartisan support in Congress and among state and local officials. Senators D'Amato and Graham have introduced legislation that would significantly increase the annual cap. Groups such as the Local Initiatives Support Corporation (LISC) strongly support this legislation.

Options

1. Index LIHTC for Inflation (Cost: $175 Million Over Five Years) -- The least expensive option would amend current law to index the LIHTC to the Consumer Price Index. This change would prevent the credit from continuing to decline in value. This proposal, however, would not make up any of the lost value of the credit since 1986. This option would cost roughly $175 million over five years.

2. Raise the LIHTC Cap (Cost: $359 to $600 Million Over Five Years) -- This option would

partially offset the loss of the credit's value since 1986. For $359 million over five years, we could increase the credit from its current value of $1.25 per capita to $1.37. A more expensive, but still moderate approach would increase the credit to $1.50 per capita, which would cost approximately $600 million over five years. We could add indexation to one of these increases, but doing so would increase the cost.

3. Support S. 1252 (D'Amato-Graham) (Cost: $1.6 Billion Over Five Years) -- This proposal would increase the annual volume cap of the LIHTC to $1.75 per capita and index it for future years. The proposal would cost $1.6 billion over five years.

Proposal

Tax Policy at Treasury raises two main concerns about increasing the LIHTC cap: (1) that there are more efficient ways to increase low-income housing than through the tax code, and (2) that tight caps increase the efficiency of the program because projects must compete vigorously for the credit. Although these arguments have some merit, the LIHTC is the only politically feasible way to help build affordable housing for people with low incomes. HUD would welcome as broad an expansion of the LIHTC as possible. The DPC and NEC recommend that you chose Option 2. This option would provide a modest increase in the LIHTC, while ensuring that the efficiency effects from relatively tight caps remain. The DPC and NEC believe that Option 1 will have too little effect in the short-term, while Treasury fears that indexation will decrease the efficiency of the program in the outyears. Option 3 is probably not feasible in light of budget constraints.

THE WHITE HOUSE

WASHINGTON

December 6, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING

SUBJECT: Welfare-to-Work Housing Vouchers

Over the last three months, DPC, NEC, and OMB have led an interagency process on economic development and housing policy. This memorandum details a proposal for 50,000 new housing vouchers to assist welfare recipients who must relocate in order to find employment, as well as to help address the shortage of affordable housing. HUD, HHS, and DOL all supportive.

In addition to the new welfare-to-work housing vouchers, your FY99 budget already includes proposals to promote housing portability and choice and to increase home ownership by reducing barriers to buying a new home. We believe these new initiatives, along with a strengthened Fair Lending Law (which has no budget impact) and a possible increase in the Low-Income Housing Tax Credit (see separate memo), would build on your record of providing public-housing tenants and other low-income individuals with the opportunity to move to neighborhoods with more jobs, better schools, and less crime.

Affordable Housing and Welfare Reform

The need for affordable housing exceeds supply, particularly for poor families with children. For example, in 1995, 5.2 million families spent more than half their income on rent and/or lived in severely substandard housing. More than 2 million of these households were families with children. According to the most recent data available, demand for affordable housing exceeded supply by 1.7 million units for the lowest income households.

The lack of affordable housing can impede families' efforts to move from welfare to work. Many welfare recipients, even with a job and the Earned Income Tax Credit, find it difficult to afford housing near their job, child care provider, or transportation line. Others find it difficult to begin the journey to self-sufficiency if they are homeless, living in crowded conditions, or surrounded by crime and drugs. Your welfare-to-work transportation proposal, if enacted, will help welfare recipients travel to their jobs, but housing vouchers provide an additional and perhaps even more promising way to help individuals gain access to employment and achieve self-sufficiency.

Legislative Outlook

Past Administration efforts to increase the number of vouchers have not been successful in Congress. Your FY 1998 budget request included funds for 50,000 additional vouchers targeted to individuals making the transition from welfare to work, but the proposal lacked detail, the White House did not emphasize its welfare-to-work aspect, and the item was not among the Administration's top priorities. As a result, Congress provided funds for only 6,500 new housing vouchers, none of which were targeted to people making the transition from welfare to work. We believe a serious, clearly articulated welfare-to-work housing voucher proposal, if made a priority by the Administration, has a better chance of attracting bipartisan support.

Proposal

OMB already has approved 50,000 new housing vouchers requested by HUD in its FY 99 budget submission. Of these vouchers, 32,000 are to be used for homeless households and 18,000 are to be used for a variety of special purposes, such as the witness protection and family unification programs.

We propose that you include in your FY99 budget an additional 50,000 housing vouchers tied to welfare to work. This proposal would strengthen our housing policy and support our welfare reform goals. If necessary, the welfare-to-work vouchers can be placed on the mandatory side of the budget, similar to the TANF welfare block grant and the $3 billion Welfare to Work program, but unlike other section 8 vouchers. The cost is expected to be about $1.3 billion over 5 years.

DPC and NEC recommend making the additional vouchers available on a competitive basis to public housing agencies that submit a plan to use the new vouchers to support families making the transition from welfare to work. This plan would be developed jointly with the local welfare agency and/or the Welfare-to-Work program grantee (generally the local private industry council), allowing state and/or local participation in the effort. The vouchers would be used to further the goals of welfare reform -- to help welfare recipients go to work or retain jobs, or allow them to move to areas where jobs can be found. Local agencies would have great flexibility to design and operate the welfare-to-work voucher program within broad national guidelines. For example, the agencies would propose whether to focus on particular categories of welfare recipients (long-term recipients, victims of domestic violence, those living in public housing, or those who have retained employment for a certain period of time) and whether to provide short-term, transitional housing assistance or longer-term support. Local plans would be reviewed and ranked by HUD in consultation with the Department of Labor (DOL) and Health and Human Services (HHS).

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THE WHITE HOUSE

WASHINGTON

PRESIDENT HAS SEEN
11-12-97

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November 11, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: RACE POLICY INITIATIVES

A few weeks ago, we sent you a list of policy ideas that could be announced over the next six months as part of the race initiative. We are attaching that list to this memo. It is worth noting again that none of these ideas has gone through the budget process, and some are more fully developed than others. We are continuing work on these policy ideas and will discuss some of them at the meeting tomorrow.

In a recent article, William Julius Wilson wrote: "The country's deep racial divisions certainly should not be underestimated, but the unremitting emphasis on these gaps has obscured the fact that African-Americans, whites, and other ethnic groups share many concerns, are beset by many similar problems, and have important values, aspirations, and hopes in common. . . . A new democratic vision . . . must find issues and programs that concern families of all racial and ethnic groups, so that individuals in these groups can honestly perceive mutual interests and join in a multiracial coalition to move America forward."

We believe the central focus of the race initiative should be a race-neutral opportunity agenda that reflects these common values and aspirations. Of course, there is still a need for strong civil rights enforcement, narrowly tailored affirmative action programs, and certain other kinds of targeted initiatives (see, for example, the health initiative described in the attached memo). But the best hope for improving race relations and reducing racial disparities over the long term is a set of policies that expand opportunity across race lines and, in doing so, force the recognition of shared interests. These policies -- for example, education opportunity zones, university-school mentoring programs, housing vouchers, and community policing and prosecuting initiatives -- address the concerns of working people of all races, at the same time as they provide especial benefits to racial minorities.

We think you should state explicitly throughout the year that this kind of agenda is the best way to achieve racial progress -- to reduce racial inequalities and bridge racial divides. Expanding opportunity for all Americans has been the clear mission of your Presidency, and it should be the clear mission of your race initiative.

December 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
CHRIS JENNINGS

SUBJECT: New AIDS Initiative

We have developed a $115 million initiative for your FY 1999 budget to improve AIDS treatment and prevention programs. This increase would go to expand programs that are critical to preventing and treating this epidemic, including the AIDS Assistance Drugs Program (ADAP), which extends life-saving new treatment therapies to low-income and underserved populations.

Background on AIDS Funding

Since you came into office, AIDS programs that focus on treatment and prevention have improved dramatically. Medicaid, which provides coverage for half of all people with AIDS, now covers protease inhibitors. Funding for the Ryan White Program has increased by 200 percent since FY1993, funding for research at NIH has increased by 50 percent since that year, and funding for the ADAP program has increased 450 percent since 1996.

The AIDS community, however, has expressed disappointment with the Administration's recent efforts in this area. AIDS groups criticized the Administration for failing to propose major increases in discretionary spending in FY1998, which allowed Congress to outspend us in this area. And in just the last few weeks, the AIDS community reacted negatively to HCFA's conclusion that budget neutrality requirements prohibit establishing a Medicaid demonstration to provide early treatment to relatively healthy HIV-infected individuals. There is no doubt that the AIDS community will be examining the Administration's FY 1999 budget submission very closely.

Proposal

The AIDS office is recommending, and we agree, that you propose an $115 million increase in your FY 1999 budget for AIDS treatment and prevention. (OMB is currently recommending $100 million). All of this spending would go to existing discretionary programs that emphasize prevention and treatment. We would recommend that the majority of this increase go to the ADAP program, because new and effective treatments of this disease are currently not reaching many who need them. We also would recommend modest increases to CDC prevention education programs, as well as a range of programs providing funds to states, cities, and community health centers.

Although the $115 million that we are suggesting falls far short of the $400 million the AIDS advocates are pushing, it is a significant investment that will improve AIDS treatment and prevention and soften criticism from the community.

Finally, in the wake of HCFA's decision on the Medicaid demonstration program discussed above, Nancy-Ann Min DeParle is looking into the possibility of a legislative proposal (which of course need not be budget neutral) for a model pilot project to expand eligibility to Medicaid for people with HIV earlier in the progression of their disease. As of this writing, we have significant questions about whether such a proposal is feasible and whether it could be done in time for the budget process. At the request of the Vice President, however, we are reviewing all options in this area closely.

Dook
POTUS

THE WHITE HOUSE

WASHINGTON

October 29, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: Jack Lew and Bruce Reed BR

SUBJECT: Domestic Violence Waivers

Despite our many efforts we have been unable to persuade Senator Murray to embrace our approach on welfare reform and domestic violence. We recommend against supporting her proposal in the Labor-HHS conference given that it is at odds with our policy. We believe the issue would be better addressed through regulation; Secretary Shalala strongly agrees. This memo provides talking points describing our position and provides a brief comparison of the domestic violence amendment offered by Senator Murray and the HHS regulations currently under review.

Talking Points

- We share Senator Murray's goal of allowing states to grant temporary waivers from welfare reform rules to victims of domestic violence while ensuring that these women receive the services they need to become self-sufficient.

- We disagree with Senator Murray about how best to achieve these goals. We believe Senator Murray's proposal would allow states to largely escape the new welfare law's work rules and time limits while failing to provide victims of domestic violence with the services they need to get on the road to self-sufficiency.

- We support a policy that will encourage states to provide temporary waivers to victims of domestic violence and require that they provide services to these women while maintaining the welfare law's strong work focus.

Background

Senator Murray has long advocated a proposal that would exclude victims of domestic violence from the welfare work requirements and time limits. The Senate adopted her amendment as part of the Senate Labor-HHS bill, which is now in conference. Senator Murray's proposal has passed the Senate several times, but has always been dropped in conference. Our Statement of Administration Policy on the Labor-HHS bill does not mention her amendment. Senator Murray has long been aware that both the DPC and HHS have serious reservations about her approach to this issue.

Currently, states can exempt victims of domestic violence from work requirements and time limits, so long as they put 30 percent of their overall caseload to work and enforce the time limit for 80 percent of their caseload. Senator Murray's approach would change the law by allowing states to grant exemptions to these women wholly independently of the overall work and time requirements. This approach would significantly weaken the welfare law's emphasis on work: for example, if 15 percent of the caseload were granted domestic violence waivers, then only 15 percent of the total caseload would have to work. At the same time, Senator Murray's proposal would do nothing to ensure that victims of domestic violence actually get the intensive assistance they need to become self sufficient; indeed, the proposal might well lead states to wholly ignore these women.

DPC, OMB, and HHS believe there is a better way to meet our and Senator Murray's joint goals, although Senator Murray strongly disagrees. We have been working on regulations clarifying that HHS will not subject states to penalties if they fail to meet the work rates because they have exempted victims of domestic violence, so long as their exemptions are temporary and the state also provides services to help these women become self-sufficient. In particular, the proposed regulation will:

- Ensure that domestic violence waivers (1) are based on an individualized assessment, (2) have limited duration and (3) are accompanied by an appropriate services plan designed to provide safety and lead to work. These provisions would help ensure that victims of domestic violence get the assistance they need and that states grant waivers only for individuals who need them.

- Excuse states from a penalty for failing to meet its work participation rate if the state meets the rate for the part of its TANF population that has not been granted domestic violence waivers.

(Within the Administration there is still some dispute between us and HHS over excusing states that grant domestic violence waivers from the 5-year time limit as well as from work requirements. We are currently discussing middle ground positions and hope to work through this dispute at the staff level.)

Both OMB and DPC believe that the proposed rule we are working on with HHS will result in a fair policy which balances our goals of protecting victims of domestic violence and ensuring the strong work focus of welfare reform. We believe it is critical that real services be provided to victims of domestic violence and that states not be penalized for providing these specialized services, but also that states not be given loopholes to escape work requirements or time limits.

Despite our efforts to address Senator Murray's concerns, we do not expect that she will be satisfied with any proposal that falls short of her amendment. However, based on HHS consultation with outside groups during the regulation development process, we do believe that many women's advocates will understand how much our proposal does to help victims of domestic violence.

WR - c.care
(also file under POTUS memos)

THE WHITE HOUSE

WASHINGTON

October 20, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MELANNE VERVEER

CC: THE FIRST LADY

RE: WHITE HOUSE CONFERENCE ON CHILD CARE

On October 23, you and the First Lady will host the White House Conference on Child Care in the East Room. This memorandum outlines the purpose and structure of the conference, the policy initiatives that we recommend you announce at the conference, and the process and direction of our work on a child care proposal to unveil this winter.

Purpose and Structure of the Conference

The White House Conference on Child Care has two purposes. First, it will call national attention to an issue that political leaders and policy makers historically have ignored, notwithstanding its enormous importance to working families. Second, it will provide a basis from which to launch a child care initiative in the State of the Union. (As noted later in this memo, we will provide you with policy options for this initiative -- including a range of price tags -- as part of your normal budget process.)

The conference will address three critical child care challenges -- availability, affordability, and safety and quality. Many parents choose to stay at home and care for their children themselves. Yet millions of Americans, by choice or necessity, rely on child care and after-school programs to care for their children for part of each day. The conference will explore how the public and private sectors can respond to the need that Americans struggling to be both good parents and good workers have for safe, affordable child care.

Morning Session. The morning session will begin with remarks by you and the First Lady and will include a video of children, parents, caregivers and others talking about child care. We believe your remarks should address the importance of child care for America's working families, note past Administration accomplishments on this issue, and announce several new policy initiatives as well as a commitment to unveil a broader child care proposal this winter.

You and the First Lady will then moderate a panel with two parts. The first three panelists will discuss why child care matters -- both to our children's development and to the nation's economy. The second four panelists will examine how well we are doing in meeting the challenge of assuring that good child care is available to working families. The first three panelists are:

- Ellen Galinsky, President, Families and Work Institute, who will discuss the relationship between quality child care and children's healthy development, particularly in the earliest years of life;
- Michelle Seligson, Founder and Director, National Institute on Out-Of-School Time, Wellesley College Center for Research on Women, who will discuss the importance of good after-school programs for youth;
- Secretary Rubin, who will discuss the need to address child care given dramatic changes in the workforce and economy.

The second four panelists are:

- Secretary Shalala, who will discuss the strengths and weaknesses of child care across the country;
- Governor James Hunt of North Carolina, who will discuss how states are doing in meeting the challenge of assuring that working families have access to safe, affordable child care;
- Dr. Valora Washington, Program Director, W.K. Kellogg Foundation, who will discuss community efforts to meet this challenge;
- Patty Siegel, Executive Director, California Resource and Referral, who will share the experiences of parents.

Afternoon Session. The afternoon session will begin with remarks by the Vice President and Secretary Riley. The afternoon panel will consider the roles that states, business and labor leaders, the faith community, health care professionals, and others can play in addressing this challenge. The panelists include: Major General John G. Meyer, Jr., Chief of Public Affairs United States Army; Dr. Susan Aronson, Member, American Academy of Pediatrics; Jane Maroney, State Legislator, Delaware; Bishop Joseph Sullivan, Vicar of Human Services, Brooklyn, New York; and Doug Price, President, FirstBank of Colorado.

Agency and Satellite Sites. An additional 300 people will view the conference at three Federal agencies, and Secretaries Shalala, Riley, Glickman and Herman will host working sessions at these agency sites during the luncheon at the White House. In addition, the entire conference will be transmitted to satellite sites in at least 48 states. The Administration's regional administrators have helped to organize these satellite conferences, and Cabinet Affairs has encouraged subcabinet officials to participate in them.

<u>**Policy Announcements to be Made at the Conference**</u>

We recommend that you indicate at the conference that you will propose a child care initiative in your State of the Union address and your fiscal year 1999 budget. We also recommend that you announce three policy proposals at the conference.

1. **Child Care Working Group.** You can name Secretary Rubin as chair of a working group on child care primarily made up of business leaders, with representation from labor and other community leaders. The Child Care Working Group would report to you within 45 days on efforts that business leaders should undertake to help working families overcome the challenge of managing child care and work responsibilities.

2. **Scholarships for Child Care Workers and Background Checks on Child Care Workers.** Experts link the quality of child care to the quality of the caregiver. Yet child care providers often receive little training, and occasionally have unsuitable backgrounds for the profession. You can announce steps to support caregivers by ensuring that they are able to afford adequate training. At the same time, you can urge Congress to pass and states to ratify the "National Crime Prevention and Privacy Compact" to protect children from child care workers who have committed crimes.

Scholarships. To help child care workers afford training, you can instruct the Department of Education to develop an outreach plan to inform students and institutions of the potential availability of Pell Grants. You also can announce a new scholarship program for child care workers. Even with Pell and other education programs that you have put in place, many child care workers cannot afford training. The new program would provide assistance to full- or part-time students working toward a Child Development Associate Credential or other degree in child development who agree to remain in the child care field for at least one year.

Background Checks. You can also announce steps to make background checks on child care workers more effective. Today, many states prohibit the release of criminal history records for purposes other than ongoing criminal investigations. The Department of Justice is prepared to transmit to Congress on October 23 the "National Crime Prevention and Privacy Compact." The compact, which must be passed by Congress and ratified by the states, will enable states to share criminal history information for limited other purposes, including background checks on child care workers.

3. **Service and School-Age Care.** You can launch the "To Learn and Grow Partnership," a

partnership of public and private organizations that will work together to expand access to and improve the quality of after-school programs through service activities. The partnership will encourage national service participants and community volunteers to teach in child care programs, and will engage children in service as part of after-school programs. You also can release the "How-To Manual," describing how to integrate service and school-age care, identifying opportunities for children to learn through service, and highlighting programs that are currently using service to enrich out-of-school time.

<u>Child Care Initiative To Be Announced After the Conference</u>

For the past several months, the Domestic Policy Council and the First Lady's Office have been leading a policy process on child care. The National Economic Council, the Office of Management and Budget, and the Departments of Health and Human Services, Treasury, Education, Labor, Defense, Justice, and Agriculture have participated.

We have identified three key areas: affordability; availability; and safety and quality. In the weeks after the conference, we will prepare a memorandum for you outlining policy options, of several different shapes and sizes, in these areas. We are also exploring ways to support parents who want to stay at home to care for their children.

Affordability. Increasing numbers of working families cannot afford decent child care, which can cost at least $4,000 a year for one child, and even more for infants and toddlers. While the average family pays about 7 percent of its income for child care, low-income families spend about a quarter of their income.

The Federal government spent $2.9 billion in direct child care subsidies in fiscal year 1997 through the Child Care and Development Block Grant (CCDBG), which provides payments for about one million children. HHS estimates, however, that we are currently providing child care subsidies to less than a quarter of the families eligible for them. In addition, the Dependent Care Tax Credit provides more than $2 billion annually in tax relief for child care expenses. We are analyzing whether to expand either of these mechanisms.

Availability. Access to child care is a problem for low-income and middle-income families alike. We are looking at two areas of particular concern -- helping businesses expand on-site care for their employees, and helping states and communities increase their supply of school-age care. We are exploring whether to provide tax credits for businesses that build and operate child care centers for their employees (the Rubin-Weill working group may make additional suggestions). We also are looking at a variety of ways -- including simplifying Federal requirements and funding streams -- to help states and communities create an adequate supply of after-school programs.

Safety and Quality. The quality of child care in this country is too often mediocre or poor. A recent four state study of child care centers found that one in eight centers expose children to unsafe or unsanitary conditions. Infants and toddlers are at the greatest risk, with 40 percent in care that poses a threat to their health and well-being. Only 14 percent of centers provide high quality care -- care that actually enhances growth and development. A study of child care in family-based settings found equally disturbing patterns. Over one-third of programs are rated inadequate, meaning that quality is low enough to harm children's development, and only 9 percent offer high-quality care.

States are currently required to spend 4% of the funds they receive through the CCDBG on quality improvement. We are looking at ways to help states improve quality by providing additional funding to states that agree, for example, to improve and enforce health and safety standards, invest in training for caregivers, or create networks to support family day care providers. We are also developing a consumer information campaign to arm parents with the information they need to chose high quality care for their children.

THE WHITE HOUSE

WASHINGTON

October 18, 1997

MR. PRESIDENT:

Please note that many of these proposals are still in the formative stage.

Phil Caplan

Copied
Reed
Kagan
COS

THE PRESIDENT HAS SEEN
10-21-97

Bruce

I like these very much
and would like to meet w/
you, J. Winston + others who'd
like to be there soon to
discuss them, + a couple of
specific dialogue initiatives
for school/workplace

Alexis
Maria

THE PRESIDENT HAS SEEN
10-21-97

Race Initiative Policy Proposals

Education

- Teaching Initiative -- Previously announced proposal to prepare and recruit teachers for high-poverty urban and rural communities.

- Urban Education Initiative -- Select 15-20 urban school districts as Education Opportunity Zones, which would receive additional monies for implementing a program of standards-based school reform, including measures to promote public school choice, end social promotions, remove bad teachers, and reconstitute failing schools. The Department of Education has requested $320 million for FY 99 for this program.

- School Construction Proposal -- Support our own proposal from last year; the Daschle-Gephardt bill; or an alternative approach.

- College/School Partnerships -- Propose a grant program to promote strong partnerships between colleges and high-poverty middle and high schools. Through these partnerships, colleges would encourage students to take demanding courses, while providing academic enrichment and intensive mentoring, tutoring, and other support services. The Department of Education has requested $200 million for FY 99 for this initiative.

- Communications Strategy for Maintaining Diversity in Higher Education -- Issue departmental report and give speech or town hall on the value of diversity in higher education; identify and highlight effective outreach and recruitment efforts in report and/or speech; invite educational leaders to White House to discuss the importance of the issue. Do <u>not</u> become Admissions Dean-in-Chief (<u>i.e.</u>, do not recommend or endorse particular admissions criteria or strategies).

- Attacking Racial Separation Within Schools -- Department of Education report on best practices for helping students reach across racial barriers; grants to support model projects.

Economic Empowerment

- Empowerment Zones, Round 2 -- Announce the Second Round Empowerment Zones designees. (There is some interagency dispute about the timing of this proposal, given our inability to come up with grant money to complement the tax incentives.)

- Housing Portability -- Announce package of proposals including expanding the home <u>ownership voucher program</u>, encouraging the use of exception rents to open suburban housing markets, eliminating obstacles to portability of Section 8 vouchers, and reducing mortgage denial rates for minorities by working with mortgage and real estate industry.

  Yes

- Fair Lending Initiative -- Announce initiative that might include an examination of

THE PRESIDENT HAS SEEN
10-21-97

certain lending practices on minorities' access to capital, measures to improve the collection and analysis of data on loan denials, and increased resources for testing and enforcement (see below).

Transportation Infrastructure Development -- Propose tax reforms to stimulate spinoff development from transit projects and aid development of urban intercity bus facilities.

Yes!

Assisting the Unbanked -- Announce the electronic funds transfer regulation, which may bring up to 10 million individuals into the banking system.

Health

Initiative to Reduce Health Disparities -- Adopt multi-faceted program, largely focused on education and outreach, to reduce racial disparities in heart disease and stroke; breast, cervical, and other cancer; diabetes; infant mortality; AIDS; and immunizations. HHS, OMB, and Chris Jennings are in the midst of developing cost estimates for this initiative.

Crime

Community Policing Initiative -- Target funds from the COPS program to hire new police officers and support community organizations in underprotected ~~high-crime,~~ largely minority neighborhoods (e.g., public housing communities); also use COPS money to promote diversity training for police and establish citizen academies to help community residents understand police procedures; promote minority recruitment in law enforcement through existing grant program.

Community Prosecuting Initiative -- Develop an initiative to give communities an incentive to experiment with community prosecution, which applies the principles of community policing -- neighborhood involvement and a focus on problem solving and prevention -- to this aspect of the criminal justice system.

Poor

At-Risk Youth Prevention Efforts -- Devote $75 million currently in CJS appropriations bill, which we proposed as part of the President's juvenile crime strategy, to targeted programs for at-risk and minority youth (convince DOJ to drop plans for distributing funds by formula); launch a new fight to get crime bill prevention programs funded in next year's budget process.

Indian Country Law Enforcement Initiative -- In line with recommendations of Departments of Justice and Interior (due on October 31), transfer law enforcement authority from BIA to Justice and seek increased law enforcement resources specifically designated for Indian Country.

Civil Rights Enforcement

Enhanced Enforcement Initiative -- Request additional funds for civil rights enforcement,

THE PRESIDENT HAS SEEN
10-21-97

tied to programmatic changes to improve coordination among federal government's civil rights offices, speed resolution of claims, and reduce backlog of cases. This initiative probably will focus on the EEOC. DPC, OMB, and other offices are currently working on cost estimates.

Hate Crimes Initiative -- Announce a package of proposals at the November 10 hate crimes conference, including measures to enhance enforcement of hate crimes laws, improve collection of statistics, initiate educational activities, and amend the current federal hate crimes statute.

POTUS Memo

THE WHITE HOUSE

WASHINGTON

October 8, 1997

MEMORANDUM TO THE PRESIDENT

cc: Vice President, Erskine Bowles, Bruce Reed, Gene Sperling

FROM: Chris Jennings

RE: **NEW YORK AND THE PROVIDER TAX ISSUE**

Tomorrow, DHHS will announce the results of its policy review of Medicaid provider taxes and its policy changes regarding New York. In brief, they will announce (1) policy clarifications that include clarify that certain provider taxes previously in question, including New York's regional tax, are permissible; and (2) support for legislation that expedites identifying impermissible taxes and ending their use. This is the culmination of an intensive process that involved HHS, OMB, DPC/NEC, Legislative and Intergovernmental Affairs, the Office of the Vice President and other senior staff. This memo provides you with detailed information on the policy review, subsequent actions, and the roll out plans.

BACKGROUND

Financing scheme and the law limiting it. During the late 1980s, many States established financing schemes that had the effect of increasing their Federal Medicaid funds without using additional State resources. Typically, States would raise funds from health care providers (through provider taxes or "donations"), then pay back those providers through increased Medicaid payments. Since the Federal government pays at least half of Medicaid payments, the provider taxes or donations would be repaid in large part by Federal matching payments. Using this mechanism, the State was left with a net gain because it only had to repay part of the provider tax or donation it originally received.

Because provider taxes and donations were effectively siphoning off potentially billions of dollars from the Federal Treasury, the Congress limited states' use of these schemes in a bill enacted by President Bush in 1991. The subsequent regulatory interpretation of these limits was, as you know, negotiated with the states and the National Governors' Association in 1993.

States' continued reliance on impermissible provider taxes and our enforcement record. Despite the new law and the regulations, many states continued to use provider taxes that at least appeared to be out of compliance. To date, these possibly impermissible taxes total an estimated \$2 to 4 billion and, in the future, could cost billions more. In response, HCFA issued letters and discussed its concerns about certain taxes with states, but -- for a variety of reasons -- never took any final action. Unfortunately, this has meant that a number of states continue using these taxes, believing that HCFA might never enforce the law, or that if they did, they could seek recourse through the White House or the Congress.

The New York provision in the balanced budget. To ensure that New York would never be vulnerable to Medicaid provider tax enforcement actions, Senator Moynihan and Senator D'Amato successfully added a provision to the Balanced Budget Act to exempt all of its provider taxes (it has dozens), both retrospectively and prospectively, from disallowances. Both in writing and orally we repeatedly objected to this provision. Moreover, we provided alternative statutory language that would have forgiven about $1 billion. As you know, however, the Senators (through their staff) rejected our offer and insisted on their original provisions.

Line-item veto and New York's reaction. In announcing the line-time veto on August 11, we raised concerns about the cost and ramifications of singling out as permissible one state's provider taxes. Although our actions were generally viewed as responsible and defensible by those who know the program and/or who are budget experts, the same clearly cannot be said of New York's political establishment. The Governor's office, the New York Congressional delegation, the Mayor, providers and unions reacted strongly and negatively to the veto. Among a host of complaints, they charged that they were singled out and were never made aware that this provision could be subject to the line-tem veto. Most recently they have criticized us for our delay in getting back to them and our willingness to support fixes for the other two vetoed provisions without addressing their problem.

Tomorrow's actions. The line-item veto of New York's special provider tax waiver provision accelerated a review process of these tax policies that was already underway at DHHS. This process has yielded two results. First, tomorrow HCFA is issuing a set of policy clarifications in a letter to State Medicaid Directors. This letter clarifies how DHHS will implement the law and regulations on states' use of health care-related taxes for their share of Medicaid; this letter will be viewed as good news for at least nine states. There will also be a notice in the Federal Register containing a correcting amendment to the regulation to make it consistent with Congressional intent; this will make New York's regional tax permissible.

The State Medicaid Director's letter also includes an announcement of our support for legislation that (a) lays out in statute how to identify impermissible taxes; and (b) would provide enhanced authority to the Secretary to forgive up to the entire amount of individual states' current liabilities if they come into full compliance with the law resolve current liabilities if the states comes into full compliance prospectively. If, however, by a date certain -- August 1998 -- no legislation is passed, HCFA will aggressively enforce its current policies.

Need for legislation. The Administration's goal in these actions is to work with the states to end the impermissible use of provider taxes. Given the staggering size of the liabilities for some states, we agree that this is best accomplished through negotiation. Specifically, we are interested in trading reductions in some or all of states' retrospective liabilities for discontinued use of such taxes in the future. However, the administrative process that HCFA has at its disposal offers many opportunities for states to continue to stall (as they have done in the past). More importantly, final settlements must be approved by the Department of Justice which may take a hard line in terms of recouping retrospective liabilities. This could force states to look for a legislative "rifle shots" to fix their particular problem, or to go to court.

Consequently, we think that the best way to bring states to the negotiations is through reliance on a legislative strategy. By strengthening the Secretary's ability to negotiate, we avoid the uncertainty inherent in an ordinary administrative process. By stating what type of legislation we would support, we get ahead of the rifle shots and possibly prevent them, as well as to get the Congress invested in developing a mutual solution to the provider tax mess. And by offering to clarify our ways of identifying impermissible taxes, we may engage states that have concerns about our interpretation, thus possibly preventing suits. These incentives are reinforced by threat of a deadline for passage of such legislation (August 1998) that triggers an aggressive enforcement action by HCFA.

Reaction from New York. DHHS's review produces good news for New York. One of New York's major concerns have been that Medicaid regulations have not grandfathered the State's "regional" tax. Given evidence of Congressional intent for this tax treatment, the Administration has published a clarifying amendment to the regulation in today's *Federal Register*. This action relieves New York of over $1 billion of provider tax liability.

However, there will be no final resolution on New York's other provider taxes. The New York delegation has already put us on notice that nothing less than a "hold harmless" solution is acceptable. They define this as meaning that they want us to waive all current taxes both retrospectively and prospectively; in other words, they want the provisions we line-item vetoed. Thus, even though there is good news for the state, it will almost certainly be viewed as insufficient.

Reaction from other states. Although nine other states benefit from the new policy clarifications, it is news of our support for legislation that will catch states' attention. The dozen or so states that have widely used provider taxes may view this positively. It is these states that we want to engage in discussion and eventually negotiations. However, the remaining states that either ended their provider tax use or who never used them to begin with may view our action as too conciliatory. We will make sure that we communicate to states that we have not -- and will not -- change our opposition to the use of provider taxes. We are simply looking for the most effective way to end states' reliance on impermissible taxes.

Roll-out strategy. The timing of briefings on this tax issue is crucial given the political sensitivity in New York. Since the Vice President is in New York until 4pm that day, we are scheduling this briefing for 3:30 (tentatively). Donna called the Governor last night to tell him that we would meet with his staff on Thursday afternoon. Gene sent a similar message to Charlie Rangel last night with a consistent message and we have also notified other key members of the New York delegation. HHS has also planned briefings for committees of jurisdiction, the NGA, and other interested parties later in the afternoon.

Because of New York's media market, there is no question that tomorrow's announcement will attract significant coverage. We do believe, however, that the approach we are taking represents the best way to start a long-overdue process of eliminating impermissible provider taxes from the Medicaid program. We will keep you apprised of developments.

POTUS Book

THE WHITE HOUSE

WASHINGTON

October 2, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOHN HILLEY
MIKE COHEN

SUBJECT: UPDATE ON NATIONAL TESTS

This memo outlines the current status of the national testing initiative in Congress, and our strategy for winning the fight to keep the initiative on track.

I. Current Status and Recent Developments

The conferees have begun to meet, but are not expected to take up the testing issue until many other issues are addressed. We have two distinct objectives in conference: (1) securing an authorization along the lines of the Senate provision, permitting tests to proceed under NAGB's auspices, and (2) ensuring that the bill provides the $16 million needed for continued test development.

For the most part, House Appropriations Committee members have argued that resolving this issue will require reaching an agreement with Goodling. By all accounts, Goodling is firmly locked into his position with the strong support of the House leadership. Last Friday he sent you a letter implying that he will not move an America Reads bill as long as you continue to press for the tests.

In a staff-level discussion, the only idea floated by Republican staff was to proceed with test development, but require separate authorization for test implementation. We do not think that is a good deal for us.

Conservative Republican Senators who supported the Coats/NAGB compromise have come under strong pressure from the Eagle Forum, and 14 of the 42 Republicans who voted for the Coats amendment switched sides last week and signed a letter written by Ashcroft, threatening to filibuster the appropriations bill if it does not contain Goodling's prohibition on the tests. We are relying on business groups and Finn and Bennett to hold as many Republicans as possible. Senate Democratic support is holding firm. Last week, 43 Democratic Senators signed a letter written by Bingaman, threatening a filibuster if the conference report does not let your testing initiative go forward.

In the House, securing Republican support for something along the lines of the Senate provision is key. Staff of the Department of Education and DPC have reached out to moderate Republicans, including Mike Castle, who spoke in favor of the Senate provision on the floor and has previously served on NAGB.

We anticipate that any compromise will need to modify the Senate provision at least somewhat, and we are working with the Education Department to prepare proposals that we can support. These might include language that prohibits the Education Department from developing national curriculum in reading and math, or that delays full test implementation for a year, while providing for a field test in interested states and districts in 1999.

In addition, we continue to explore ways of reducing the opposition from the Black and Hispanic Caucuses, though securing their support alone will not substantially advance our cause. Secretary Riley has met with the three members of the CBC who opposed the Goodling amendment -- Chaka-Fattah, Al Wynn, and Harold Ford -- to seek their advice on how best to secure the support of the Black Caucus. They noted that the primary concern of caucus members is school construction, and that members feel strongly that we have failed to fight sufficiently hard for this initiative. There are two school construction tax-credit proposals likely to be introduced in Congress in the near future, both as alternatives to Coverdell-like provisions to provide IRA tax-free withdrawals for K-12 education.

One will be offered by Rangel in a Ways and Means mark-up, and the other by Daschle if Coverdell offers his proposal in the Senate. We believe that it will be helpful for us to endorse at least one of these proposals if they begin to move in Congress.

We also have been working closely with the Council of Great City Schools to explore commercially available 4th grade reading tests in Spanish that are aligned to NAEP frameworks and performance standards. At least one such test is already available -- essentially the equivalent of a Spanish-language version of the national reading test. Our strategy is for the Great City Schools and the local superintendents to take the lead in persuading the Hispanic groups and the Hispanic Caucus that this test provides what they have been asking for. We then would help ensure that these tests could be administered and reported in coordination with the national tests, and be prepared to support paying for their administration through Title I.

The work on test development has been proceeding over the last several weeks. The test specifications that would provide the blueprint for test development were completed, and new advisory committees organized by the test development contractor began to meet.

For a number of reasons, these developments were greeted with some alarm by key Republicans in the Congress (e.g., Coats, Specter, and Riggs) and elsewhere (e.g., Finn, Ravitch, Bennett and Engler), especially a provision in the test specifications permitting students to answer all test questions with the aid of a calculator. At our urging, Secretary Riley issued a statement criticizing the calculator decision, urging NAGB to reverse the decision.

II. Communications
Our overall approach over the coming weeks is to convince the Republicans that they are fighting a losing battle by opposing us again on education issues. We will highlight the national tests as the centerpiece of your campaign to improve public education through a comprehensive strategy of promoting higher standards and greater accountability; increasing parental involvement and public school choice through charter schools; and investing in improved teaching and learning, including technology programs. We will cast our opponents as trying to undermine improvements in public education by blocking the tests and pushing for block grants that will end important programs and cut investments.

We will wage a continuing, high profile campaign over the next few weeks, with the following events being planned:

- The Vice President's release of an Education Department Study on the importance of father's involvement in education on Thursday.

- A visible, high-tech business leaders effort, which you will kick off at a White House meeting with John Doerr, James Barksdale and other high-tech CEO's on October 8, followed by a public statement prior to your departure to New Jersey.

- A meeting the week of October 20 with the newly formed Learning Alliance for public education, a consortium of 12 national organizations involved in K-12 education working to promote a standards-based reform agenda at the local level.

- If schedule permits, the Vice President's participation in a joint meeting of the Council of Great City Schools and U.S. Conference of Mayors on October 15-18, where an additional 4-5 cities would announce their participation in the tests.

- One or more background briefings on public education for selected press by the Vice President or First Lady and Secretary Riley.

- Release of a Department of Education report that says students who take algebra and other advanced math courses are far more likely to go on to college, along with the release of a Department of Education/National Science Foundation math directive action plan.

- Announcement of a new plan for recycling surplus federal computers to schools.

- Continued efforts by Secretary Riley, Deputy Secretary Smith, White House staff, and other Cabinet members to talk to editorial boards, Sunday shows, and talk radio in key states and congressional districts.

- A congressional recess strategy in targeted districts, with aggressive efforts by surrogates while you're out of the country.

III. Outreach
Education Department and DPC staff meet weekly with education and business groups that support the tests to share information and coordinate strategy. We also have worked closely with other business leaders and groups, including Lou Gerstner and John Doerr. As a result, we have learned that:

- A number of business leaders are considering buying ads in support of the tests.

- Lou Gerstner is trying to secure an endorsement for the tests by ACHIEVE. The six CEO's on the Board and four of the Governors (Engler, Romer, Hunt and Miller) are supportive; Voinovich and Thompson have not yet agreed.

- John Doerr has written to governors and state education officials, as well as big city education leaders, thanking those who have signed up for the tests and urging others to join.

- Business and education groups alike have sent alerts to their grass roots membership urging them to contact their Congressional delegations and promote the testing initiative in the press.

The Office of Intergovernmental Affairs has worked regularly to shore up the Governors and Mayors already participating in the tests and keep them apprised of the Congressional battle and Intergovernmental also is reaching out to additional state and local elected officials.

Education Department and DPC staff continue to meet with civil rights groups in an ongoing effort to respond to their concerns and to educate them about the implications of placing NAGB in charge of the tests.

We also have been in close contact with Checker Finn and Diane Ravitch, urging them, together with Bill Bennett and John Engler, to work to maintain Republican support in the Senate and help find a toehold in the House.

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THE WHITE HOUSE

WASHINGTON

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September 19, 1997

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Education -- Labor-HHS-Ed Appropriations: The Labor-HHS-Ed appropriations conferees are expected to meet next week. In addition to securing adequate funding for your priorities, we are working to make sure that the final bill rejects block granting and provides the funds and authority to proceed with national testing. We believe it will be relatively easy to remove the block grant provision from the Senate bill, given the failure of a similar amendment in the House to generate support. To win on our testing initiative, we must cast the House vote on the Goodling Amendment as yet another indication of the Republican Party's indifference to improving public education. Your radio address and charter schools event on Saturday were key steps in that strategy; we are now developing additional events involving the Vice President, Secretary Riley, and others. We are also urging business leaders and opinion leaders (e.g., Checker Finn and Diane Ravitch) to help make the case for the national tests as authorized by the Senate (i.e., with NAGB as overseer). Finally, we are continuing to look for ways to reduce the opposition of the Black and Hispanic Caucuses, either through adjustments to the testing proposal or agreements on other issues, such as school construction.

2. Education -- Vouchers: The District of Columbia Appropriations bill, as passed by a House subcommittee last week, includes a provision authorizing funds for private school tuition vouchers. (The bill would provide vouchers worth $3,500 to about 2,000 parents.) We sent a SAP to Congress last week saying that senior advisors would recommend a veto if the bill comes to you with this provision. Republican supporters of the voucher proposal may make use of a new Harvard University study of Cleveland's voucher program. The study, which received significant press attention last week, found high levels of student achievement and parental satisfaction among those receiving vouchers. The Education Department argued, in response to press inquiries, that (1) the study examined students in only two of the forty-one schools participating in Cleveland's voucher program, and (2) the Administration's basic case against voucher programs rests on the harm they do to children who do not use vouchers and remain in public schools. Later in the year, the Ohio Department of Education will release the results of a state-commissioned evaluation of the Cleveland voucher program, which will cover all participating schools. We do not know what this study will show.

3. Education -- Proposition 209 and Hopwood: A University of California Task Force charged with examining declines in minority enrollment in the wake of Proposition 209 has

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recommended dropping the SAT as an admission requirement. The group based its recommendation on projections that continued use of the test would cause Hispanic enrollment to decline by as much as 70% at the system's flagship campuses, and lead to similar declines in African-American enrollment. Governor Wilson denounced the Task Force's recommendation, which probably will not be voted on until the spring. Earlier this year, Texas responded to the Hopwood decision by taking action similar to the UC Task Force's recommendation. A new law, signed by Governor Bush, requires automatic admission of students in the top 10% of their high school classes to the state university of their choice; these students need not provide any standardized test scores.

Our efforts to develop policy responding to Proposition 209 and Hopwood have focused not on changing university admissions standards (we do not think the federal government usefully can do much in this area), but on getting universities to partner with high schools and middle schools in economically deprived areas to provide mentoring and academic support. (The University of California Task Force also has recommended establishing such mentoring programs.) Our efforts in this direction seemed to us to dovetail with NEC's work on the Chaka Fattah proposal, and we are now encouraging NEC to make this partnering initiative a significant part of the revised Fattah proposal.

4. Health -- Children's Health Implementation: The DPC is pushing HHS to move quickly to disseminate information and guidance to states regarding implementation of the new children's health initiative. In the past two weeks, the Department has published state funding allotments and has issued a document showing what information states will have to supply in their applications for funding. In addition, HHS has given detailed briefings on the program to the NGA, members of Congress, and interest groups. But much more needs to be done. We are working to distribute additional materials to the states, providers, consumers, and other interested parties in October -- the first month the program goes into full effect. In addition, we are developing events for you and/or the First Lady to highlight the program and provide information about it.

5. Health -- FDA Reform: After months of delay, the Senate is scheduled to pass an FDA reform bill next week. At the same time, the House version of the bill will come before the full Commerce Committee. There is great interest in enacting an FDA reform bill this year because failure to do so will result in the expiration of the Prescription Drug User Fee Act (PDUFA), which has significantly expedited the FDA's review of new drugs. The Administration has two principal concerns about the Senate version of the bill. First, the bill would prevent user fees from going into effect unless the FDA receives "full funding" -- a triggering mechanism that may interfere with the Administration's future budget decisions. Second, the bill would preclude the FDA from reviewing new medical devices for uses other than the manufacturer's intended use. We believe these issues can be resolved prior to the bill coming to you for signature.

6. Health -- AZT Trials: An editorial in *The New England Journal of Medicine* this week criticized U.S.-funded clinical trials designed to discover ways to reduce maternal-infant transmission of HIV in developing countries. The article, which received significant press coverage, compared the trials to the Tuskegee syphilis test because some participants in the trials receive placebos, while others receive a drug with proven benefits (AZT). HHS officials (including Drs. Varmas and Satcher) believe that the criticism is misguided, as does Dr. Harold Shapiro, the Chair of the National Bioethics Advisory Commission, and many other well-respected ethicists and scientists. In addition, international experts convened by the World Health Organization -- and ethical review boards in each of the countries in which the studies are occurring -- have determined that the studies are scientifically well-founded, ethical, and essential to the fight against AIDS. The studies are designed to find effective AZT treatments that are simple and affordable enough to use in developing countries, given poor economies and low standards of public health care. Giving placebos to some participants -- which is equivalent to the local standard of care -- is necessary to obtain reliable and timely information about these experimental AZT regimens.

7. Health -- Dr. Satcher: Your nomination of Dr. Satcher to be Surgeon General has been well received. Dr. Satcher made many successful courtesy visits on the Hill last week. Many members, including Senators Frist and Jeffords, issued supportive statements. Most important, Senator Lott said that he saw no reason why Dr. Satcher should not be confirmed. We will continue to seek endorsements from members and advocacy organizations. We are hopeful that the confirmation hearings will begin in the next couple of weeks.

8. Welfare -- Fair Labor Standards Act: In the wake of Speaker Gingrich's pledge to fix what he called the Administration's effort " to undermine and destroy welfare reform" by applying the minimum wage and other labor protections to workfare participants, Rep. Clay Shaw is trying to garner bipartisan support for a bill to address state concerns about the cost of work programs. Shaw's latest version (1) provides an exemption from FICA and FUTA that seems to cover not only workfare participants, but other working welfare recipients, including those in subsidized private sector jobs; (2) contains a set of definitions that could be read to suggest that working welfare recipients are not regular employees for purposes of other labor laws (although Shaw insists that this is not his intent); and (3) limits required work hours -- again, apparently for all working welfare recipients, not just workfare participants -- to the sum of the welfare grant and food stamps, less any child support collected by the state, divided by the minimum wage.

Although this draft legislation appeals to a bipartisan group of governors (Governors Carper and Chiles like it), it is not attracting much support in the House. Blue Dog Democrats are criticizing the draft on the ground that it significantly weakens work requirements; in low-benefit states, the bill would result in welfare recipients working less than 20 hours each week, with the remaining hours spent in activities such as job search. Liberal democrats (and unions) are criticizing the draft on the ground that it weakens labor protections for welfare recipients. And the Republican leadership is criticizing the draft on the ground that it does not sufficiently

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weaken labor protections for welfare recipients. Given this criticism, Shaw may well go back to the drawing board.

9. Welfare -- Privatization of Food Stamps and Medicaid: The Department of Agriculture has received a waiver request from Arizona to privatize food stamp and Medicaid operations in Eastern Maricopa County (representing 13% of the state's caseload). Under the welfare law, USDA must act on a request to privatize food stamp operations -- either by approving it, denying it, or seeking additional information -- within 60 days. This 60-day clock will run on October 3. Even apart from broader concerns about privatization, Arizona's demonstration proposal suffers from a serious defect: because the state wants to test many aspects of the social service system in Maricopa county (essentially creating a mini-replica of Wisconsin Works), it will be very difficult to isolate the effects of privatization on social service delivery. At a meeting last week, USDA, DPC, and OMB agreed that USDA should meet the October 3 deadline by asking Arizona for further information addressing this issue. Congressional Republicans have not resurrected the privatization issue this fall, and we should not do ~~anything~~ to provoke them before November.

We can't let the money [illegible] [illegible]

10. Welfare -- Child Support Computer Systems: As you know, as many as eight states (~~California,~~ Michigan, Illinois, Pennsylvania, Ohio, Maryland, D.C., Nevada, and Hawaii) will not meet the October 1 deadline -- established in the 1988 Family Support Act and already extended from 1995 to 1997 -- for putting in place a statewide child support computer system. California is probably two to three years away from meeting this goal. Under current law, any state failing to meet this deadline loses both federal child support funds and TANF funds.

You recently asked whether the Administration should endorse Senator Feinstein's proposed approach to this problem: a six-month moratorium on imposing penalties on states that are not in compliance with the computer systems requirement. We and Secretary Shalala agree that supporting this proposal would signal to states that we are not serious about enforcing child support rules and might slow state progress toward completing computer systems. In addition, the Feinstein proposal does not actually accomplish anything because even under current law, states have until December 31 to inform HHS that they have failed to meet the October 1 deadline and the ensuing process for imposing penalties will take several additional months.

We do think, however, that some change in current law is necessary. Rep. Shaw has asked us to work with him on a bipartisan basis to develop legislation providing HHS with additional penalty options -- e.g., the loss of 5-15% of federal funds -- so that HHS can sanction states for noncompliance while not depriving them of all TANF and child support funds. We believe a proposal of this kind can be enacted before HHS has to withhold TANF and child support funds from any state under the current law.

Yes

11. Welfare -- Children's SSI Terminations: Rep. Shaw and other House Republicans held a press conference last Wednesday to rebut claims by advocates that the children's SSI cuts are too severe. They released a new GAO report that validates SSA's new childhood disability

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standard, judging it to be consistent with the welfare reform law, not overly strict, and fairly administered. They also praised a recent random sample study by SSA of 40 children whose benefits were terminated, arguing that it showed the new standard is fair. Advocates have attacked the SSA study. SSA continues to tell the press that the disability standard it adopted is consistent with congressional intent and that it is working hard to make sure the standard is administered fairly. At his confirmation hearing, Ken Apfel committed to a "top-to-bottom" review of the SSA's administration of the new standard within 30 days of his confirmation; this promise echoed the one you recently made to disability advocates. Some press stories have reported erroneously that Apfel committed to reviewing the standard itself, and not just SSA's administration of it.

12. Crime -- Brady Law: The Center to Prevent Handgun Violence released a study on Friday showing that the Brady Law has helped to disrupt illegal gun trafficking patterns. According to the study, states that did not require background checks for handgun purchases prior to the Brady Law became less important as source states for gun traffickers after enactment of the law. The study suggests that the few jurisdictions that have stopped doing background checks in the wake of the Supreme Court's decision may be inviting gun traffickers to locate in their communities. We issued a statement from you highlighting the study and its findings.

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THE WHITE HOUSE

WASHINGTON

September 5, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MIKE COHEN

SUBJECT: UPDATE ON NATIONAL TESTING INITIATIVE

Over the past several days, White House staff, Secretary Riley and Education Department staff have continued to work to build support for our testing program in both the House and Senate. At week's end, here is where we stand.

Senate: Secretary Riley testified Thursday morning before Sen. Specter's Appropriations subcommittee, and appears to have made significant progress. Sen. Specter, Coats, Gregg, Jeffords, Harkin and Kennedy are all involved in negotiations toward a compromise which, if successful, would lead to Coats and Gregg withdrawing their amendments to kill the tests. At present, staff involved in the negotiations report that they are centering on our NAGB proposal, and are cautiously optimistic that a deal will be worked out by Monday evening. We have been pressing them to complete negotiations as rapidly as possible, because we also know that Coats and Gregg are receiving increasing pressure from the far right.

House: We now expect the Goodling amendment to come for a vote on Tuesday at the earliest . Goodling appears to have solid Republican support. As expected, the Hispanic Caucus is supporting Goodling, as are a growing number of members from the Black Caucus. Members of both Caucuses are coming under strong pressure from the civil rights groups to oppose the tests (In addition, many urban school districts that signed up for the tests are now receiving pressure from MALDEF and other Hispanic groups to pull out of the program; so far, we are holding all of the cities, but a handful with large Hispanic populations may well drop the reading test and participate only in the math test.)

Key Steps Next Week:. Your event on Monday at the Four Seasons Elementary School in Maryland will provide an important opportunity to make clear to Congress that an appropriations bill that stops your testing proposal will be unacceptable. In addition, Secretary Riley, Rep. Gephardt and Sen. Daschle will hold a press conference on Tuesday morning to express joint support for the testing initiative. This should help to hold Democrats for the House vote. We will continue to press hard for a deal in the Senate. A deal in the Senate, together with a veto threat, should put us in a strong position as we approach the conference.

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THE WHITE HOUSE

WASHINGTON

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August 29, 1997

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Education -- National Testing Initiative: A team from the White House and Department of Education worked throughout the week to refine and implement our strategy for defeating the Goodling amendment. Among the key steps taken:

Legislative

- Secretary Riley announced that we will send up legislation at the beginning of next week to put NAGB in charge of the tests. This announcement helped to solidify support in the business community; it also may help to reenlist support from Diane Ravitch and other conservative opinion leaders. Rep. Riggs told us that he would talk with Rep. Goodling about using the NAGB legislation as a basis for a compromise. We remain doubtful that Goodling wants to compromise (or that Riggs will do so without him), but we encouraged Riggs to proceed.

- Secretary Riley made calls to key members in both houses in an effort to shore up our support and explore avenues for compromise. Many similar staff-level conversations have also taken place.

- Reps. George Miller, Bill Clay, and Matthew Martinez are sending a "Dear Colleague" letter in support of the tests and in opposition to the Goodling amendment.

Outreach

- Supporters in the education and business community have stepped up their efforts to contact key members of Congress; a number have also submitted op-eds in support of the tests.

- OPL and DPC have set up meetings with African-American and Hispanic groups in an effort to address their concerns.

- We have enlisted the support of mayors and governors from participating cities and states.

Communications

- Your radio address will discuss the importance of national standards and note the threat your initiative faces in Congress.

- Secretary Riley will participate in an event in Philadelphia on Tuesday with Mayor Rendell and Superintendent Hornbeck to highlight impressive test score gains over the last two years -- including gains among LEP students on tests in English.

- The Vice President will do an event on the testing initiative on Thursday and will enlist the support of business leaders in a conference call on Wednesday.

2. Food Safety: As you know from yesterday's daily, Secretary Glickman held a press conference today to announce new proposed legislation to give USDA enhanced authority to enforce food safety laws. To emphasize the coordinated nature of our food safety policies, the Secretary also announced that the FDA would seek similar enforcement authority. Both pieces of legislation will go to Congress next week.

THE WHITE HOUSE

WASHINGTON

May 14, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: RAHM EMANUEL
BRUCE REED
ELENA KAGAN

SUBJECT: UNIONIZATION OF SECRET SERVICE UNIFORMED DIVISION

You will meet tomorrow with Gil Gallegos and other officers of the Fraternal Order of Police (FOP). They may ask you, as they have before, whether you will amend an Executive Order to allow employees of the Secret Service Uniformed Division to unionize and engage in collective bargaining. This memo provides you with the arguments on each side of the issue, so you can decide how to respond to inquiries.

Before his departure, Jack Quinn conducted an extensive review of this issue and recommended changing the Executive Order in the way the Uniformed Division employees requested. The Department of Treasury is strongly opposed to this approach. We believe a sensible compromise proposal is available, but Treasury has rejected this compromise and we do not know how the Uniformed Division employees would greet it.

Background

Federal law gives the President authority to issue an order prohibiting the employees of any federal unit that "has as a primary function, intelligence, counterintelligence, investigative or national security work" from organizing and collective bargaining. Using this authority, President Carter issued Executive Order 12171, which precluded the Secret Service Uniformed Division from engaging in these activities. The E.O. also covered many other units in the Departments of Treasury, Defense, Justice, Transportation and Energy.

In March and May 1995, members of Congress (Reps. Trafficant, Frank, Conyers, and Torres) wrote to you requesting that you exempt the Secret Service Uniformed Division from the E.O., allowing employees of this division to unionize. The White House referred the letters to the Department of Treasury, which advised the Congressmen and two interested unions that national security concerns required the ban to remain in effect. In September 1995, Judge Mikva affirmed this determination, citing a policy of deference to the Treasury Department on matters relating to the security of the President and Vice President.

Last year, Jack Quinn received a letter from the Secret Service Uniformed Division Labor Committee of the FOP asking for reconsideration of this issue. The letter stated that "national security concerns...are being used as a convenient way to deny the members of the Uniformed Division fundamental labor rights." Quinn initiated discussions with Treasury Department officials and Uniformed Division employees.

In a September 1996 FOP questionnaire for presidential candidates, you referred to the controversy and stated: "To make a decision on this issue in as thoughtful and expeditious a manner as possible, I have asked my counsel . . . to look into the competing arguments, and present a recommendation to me."

At a later meeting with the Executive Board of the FOP, you were careful not to commit yourself, but did express sympathy for the position of the Uniformed Division employees. The Wall Street Journal quoted you as saying at that meeting that "it would be the height of hypocrisy for me not to support [the right to unionize] for federal officers." Members of the FOP left the meeting generally encouraged.

Quinn recommended before he left that the Administration grant the Uniformed Division employees' request. Secretary Rubin, however, vehemently opposed this recommendation, and the matter did not come to you for decision.

As consideration of the issue has proceeded, Gallegos and employees of the Uniformed Division have accused Uniformed Division management of retaliating against union supporters. One incident resulted in a lawsuit brought by the officers alleging various constitutional violations. In addition, Gallegos has come under increasing pressure from his membership to move forward on this issue.

Department of Treasury Arguments

The Department of Treasury offers three reasons for opposing unionization. First, Treasury claims that the obligation to bargain will compromise security by decreasing management's authority over such matters as the deployment and scheduling of officers and the selection of equipment. Treasury cites the decision to close off Pennsylvania Avenue to traffic as an example. That decision affected many employees' schedules and work assignments. Without a union, the Division could take this action unilaterally; with a union, the Division might first have had to bargain about the proposed change, thereby losing flexibility and causing delay.

Second, Treasury argues that unionization will compromise security by forcing the disclosure of information during collective bargaining. Treasury notes that information about security procedures and techniques-- about postings, manpower allocations, equipment, and so forth-- is now provided on a "need to know" basis. If the Division were obligated to engage in collective bargaining, Treasury argues, it would have to provide such information to union members and officials and possibly to arbitrators.

Third, Treasury argues that exempting the Uniformed Division from the E.O. will place the government on a slippery slope toward exempting other covered employees or eventually eliminating the E.O. Treasury is particularly concerned that if the Uniformed Division are free to unionize, then the special agents of the Secret Service, who directly protect you, the Vice President, and your families, will request identical treatment.

Uniformed Division Employees' Arguments

The argument in favor of allowing employees of the Uniformed Division to organize starts from a simple premise: this Administration is committed to safeguarding the rights of employees to organize and engage in collective bargaining. This commitment should be upheld unless there is a strong countervailing interest.

In considering whether such an interest exists, you should note that there is no danger that unionization will lead to work stoppages of essential employees. A federal statute makes it an unfair labor practice for a union to strike at any federal agency. This statute would apply to Uniformed Division personnel just as it does to other federal employees.

Although Treasury is right that the obligation to bargain will limit its unfettered authority over workplace decisions, it is not nearly so clear that this obligation will compromise security interests. With respect to a number of issues, such as benefits, the obligation to bargain will have little or no effect on security. With respect to more sensitive issues, bargaining often will not be required. Agencies can take certain actions involving hiring, assignments and the like -- actions implicating "management rights" -- without engaging in collective bargaining. If this authority is insufficient, Treasury can negotiate contract provisions giving it additional powers. And if even this is not enough, we can reserve still greater powers to Treasury through adoption of the compromise proposal discussed below.

Similarly, Treasury's concern about the disclosure of sensitive information seems overstated. The officers in the Uniformed Division already have most of this information -- or at least could obtain it if they all pooled their knowledge. Moreover, the Treasury Department could condition providing such data in collective bargaining on an agreement by the union to confidentiality requirements.

Finally, Treasury's "slippery slope" argument is subject to question. If exempting another unit from the E.O. would pose a greater danger to security than exempting the Uniformed Division, then the Administration should be able to justify continued coverage of that unit. For this reason, all four other agencies with covered employees declined to support Treasury's argument, stating that their employees could be distinguished from Uniformed Division personnel.

Compromise Proposal

An alternative course is to amend the E.O. to allow Uniformed Division employees to unionize, but to give them fewer collective bargaining rights than other unionized federal employees have. This approach should not be difficult to accomplish. When you came into office, you signed an executive order requiring the agencies to bargain over certain subjects that they previously did not have to bargain over. In modifying the E.O. to allow unionization of Uniformed Division employees, you could make clear that the <u>old</u> rules apply to these employees. These rules would give the Treasury Department greater authority to act unilaterally -- without any consultation with the employees' union -- than federal agencies now have. It would go some way toward accommodating both the employees' desire for unionization and the agency's concerns about security.

THE WHITE HOUSE

WASHINGTON

May 16, 1997

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 Tranmission

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 Carribean 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 Tuskeegee 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 Tuskeegee 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 oversees, 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'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.

TALKING POINTS

* OUR GOAL IN SUPPORTING THESE STUDIES IS TO FIND EFFECTIVE WAYS TO PREVENT MOTHER-TO-CHILD TRANSMISSION OF HIV THAT CAN BE USED IN DEVELOPING COUNTRIES. THAT MEANS FINDING A REGIMEN THAT IS EFFECTIVE FOR THE SPECIFIC POPULATION AND AFFORDABLE IN THAT COUNTRY.

* THE FULL AZT-076 REGIMEN, WHICH IS THE STANDARD OF CARE IN THE UNITED STATES, IS NOT FEASIBLE FOR THESE COUNTRIES. IT IS EXPENSIVE AND REQUIRES SOPHISTICATED MEDICAL MONITORING.

* WE HAVE WORKED WITH THE WORLD HEALTH ORGANIZATION, UNAIDS AND THE HOST GOVERNMENTS TO DESIGN THESE TRIALS. THEY ARE FULLY SUPPORTED BY THE INTERNATIONAL BODIES AND BY THE HOST GOVERNMENTS

* THESE TRIALS HAVE BEEN REVIEWED FROM AN ETHICAL STANDPOINT BY THE CDC AND NIH INSTITUTIONAL REVIEW BOARDS, AND BY REVIEW BOARDS IN THE HOST COUNTRIES. WE AGREE THAT THESE ARE DIFFICULT AND COMPLEX ISSUES, BUT THAT IS EXACTLY WHY WE WENT TO SOME LENGTHS TO ACHIEVE MEDICAL AND ETHICAL CONSENSUS ON THE RESEARCH NOT ONLY WITHIN HHS, BUT WITH INTERNATIONAL ORGANIZATIONS AND THE HOST COUNTRIES THEMSELVES.

* WE ARE DEDICATED TO FINDING AN EFFECTIVE THERAPEUTIC INTERVENTION THAT CAN REALISTICALLY BE ADMINISTERED IN THE HOST COUNTRIES AND IS AFFORDABLE.

THE WHITE HOUSE

WASHINGTON

May 6, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed, Assistant to the President for Domestic Policy
Dr. Eric Goosby, Acting Director, Office of National AIDS Policy

SUBJECT: Follow up to the April 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 April 5 - 8.

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

- Opposition of the HIV Prevention Act of 1997;
- Work to eliminate all regulations and requirements for mandated reviews by citizen review panels of the content of HIV prevention materials;
- Continued leadership and highest priority by our government on development of a successful HIV/AIDS vaccine within a decade;
- Encourage scientific research on the potential benefits and/or risks of medical marijuana and pending results of such research, the government refrain from any efforts to prosecute doctors, who in good faith, discuss the use of medical marijuana or recommend it for their patients;
- Continued advocacy for prison issues relating to compassionate release, discharge planning, standards of care, protective barriers, and substance use; and
- Continued leadership by the Administration on providing the science in a report to Congress on the efficacy of syringe exchange programs to reduce the transmission of HIV and the certification of such syringe exchange programs as effective in reducing the incidence of new HIV infections while not increasing substance abuse.

The Council also sent a letter to you regarding the elimination of discrimination against those infected with HIV by certain Federal agencies (copy attached).

SIXTH PRESIDENTIAL ADVISORY COUNCIL ON AIDS

April 5-8, 1997

Recommendation on Coburn Bill

The President should forcefully oppose the HIV Prevention Act of 1997. Many provisions of this bill, including enforced mandates, interference with State and local control over health care policies, and the potential for institutional discrimination against people living with HIV/AIDS, will undermine rather than enhance our nations HIV prevention strategy.

Final

SIXTH PRESIDENTIAL ADVISORY COUNCIL ON AIDS

April 5-8, 1997

Recommendation on Content

The Secretary of Health and Human Services should eliminate all regulations and requirements for mandated reviews by citizen review panels of the content of HIV prevention materials. HIV prevention materials produced or distributed with federal funding should be free of restrictions on content, subject only to review for scientific accuracy and cultural appropriateness for the targeted population. Grantees should be given great flexibility in utilizing the least burdensome methods of conducting these reviews.

SIXTH PRESIDENTIAL ADVISORY COUNCIL ON AIDS

April 5-8, 1997

Recommendations: HIV Vaccine Development

Development of a successful HIV/AIDS vaccine is clearly feasible and should be considered of the highest priority by our government. In order to succeed, we suggest the following recommendations:

1. The President must declare an urgent goal of developing a vaccine to prevent HIV/AIDS within a decade in order to mobilize public opinion, political will, and international collaboration, and to assign high priority to this effort within each of the governmental agencies involved in HIV/AIDS vaccine research and development. As the HIV/AIDS epidemic has no borders, and a successful vaccine will require international collaboration, the President should work with the leaders of other nations in a global effort to achieve an HIV/AIDS vaccine for all the world.

2. A significant and sustained increase in funds must be made available for HIV/AIDS vaccine research and development. These funds must be derived from NEW sources from both government and industry, and must not be taken from existing programs aimed at prevention, research, care, services, and/or treatment for persons with HIV/AIDS. Innovative use of such funds is essential, as seed money to initiate new and creative hypotheses in vaccine research; to support product development; to expand the proportion of successfully funded grant applications; and to bring additional entities into the HIV/AIDS vaccine field.

3. Development of an effective HIV/AIDS vaccine will require expertise in many areas, including basic science, applied research, public health policy, and legal, ethical, industrial, and international issues. Dr. David Baltimore has recently been chosen to provide advice and leadership for the NIH HIV/AIDS vaccine effort, and the Council is highly supportive of this appointment. Additionally:

    - Participation by non-governmental sectors and organizations is also essential to achieve the goal of expedited vaccine research, product development and use. The Vice President should convene a public-private HIV/AIDS vaccine consultative forum, composed of senior representatives to encourage communication between sectors, to address gaps in the field, and to speed progress towards the President's goal. Participation on this HIV/AIDS vaccine forum should include representation from: US Government agencies, industry, the international community, academia, the World Bank and other funding agencies, the insurance industry, ethicists, and communities most affected by the epidemic.

    - To achieve the goal of a more comprehensive vaccine development effort within the government, ALL relevant agencies within the US Government--including NIH, CDC, DOD, DVA, FDA, USAID and relevant offices within these agencies, especially those relating to minority and women's health--must be substantively involved in the vaccine effort. The agencies must regularly communicate with one another and share information.

SIXTH PRESIDENTIAL ADVISORY COUNCIL ON AIDS

April 5-8, 1997

Recommendations on Medical Marijuana

Background

On November 5, 1996, voters in California and Arizona approved the use of marijuana for medical purposes. In 1994, Ohio approved the use of medical marijuana, though its legislature is currently considering reversing that stand. Virginia and Louisiana have decriminalized possession of marijuana in certain medical cases. Today, 26 states and the District of Columbia have existing laws and resolutions establishing therapeutic research programs, allowing doctors to prescribe marijuana or asking the federal government to lift the ban on its medical use. In 10 states, similar laws have either been repealed or have expired.

Proponents of the use of medical marijuana cite anecdotal evidence of beneficial effects from its use, while opponents claim no convincing scientific evidence of such benefits and cite potential dangers. Research on the potential health benefits and/or risks associated with medical marijuana use is clearly needed.

Resolution

The President should direct appropriate agencies to take all steps necessary to encourage scientific research, including clinical trials, to gauge the potential benefits and/or risks of medical marijuana use (including smoked marijuana) on chronic pain, nausea, glaucoma and other conditions due to illnesses such as AIDS, cancer and other chronic diseases.

Further, the President should direct that, pending the results of such research, the government refrain from any efforts to prosecute doctors who, in good faith, discuss the use of medical marijuana or recommend it for their patients.

SIXTH PRESIDENTIAL ADVISORY COUNCIL ON AIDS

April 5-8, 1997

Recommendations: Prison Issues Subcommittee

1. Compassionate Release

The President should direct the Justice Department and the Director of the Federal Bureau of Prisons to revise administrative and judicial standards of compassionate release for use in all Federal and Federally-funded prisons. Prisons will do this in accordace with American Bar Association (ABA) Standards. Furthermore, equivalent compassionate release programs should be required in state and local prisons as a condition of these institutions receiving federal funds. The Federal Bureau of Prisons also should be directed to maintain statistical and evaluative records concerning the compassionate release policy and file an annual report to the President, Secretary of Health and Human Services and the Office of National AIDS Policy.

2. Discharge Planning

The President should direct the Secretary of Health and Human Services to develop standards of care to ensure that, prior to release, ex-offenders with HIV/AIDS are provided timely, thorough, and appropriate case management/discharge planning. These standards should address behavioral and social service needs; continuity of care; and appropriate linkages to local community services, medical services, social service benefits, appropriate case management, and housing assistance programs to ensure against homelessness.

3. Standards of Care.

The President shall direct the Federal Bureau of Prisons to incorporate the upcoming Report from the HHS Panel on Clinical Practices for the Treatment of HIV Infections in all correctional medical facilities. It should be required that care providers be adequately trained to implement these standards and all appropriate therapeutic options associated with the management of HIV disease be available.

4. Protective Barriers.

The President shall direct the Attorney General to direct the Federal Bureau of Prisons to ensure that condoms and dental dams are made readily available for all prisoners within correctional facilities to prevent transmission of HIV/AIDS.

5. Substance Use.

The President shall direct the Attorney General to direct the Federal Bureau of Prisons to investigate and report within 90 days on the feasibility of and various options for providing comprehensive substance abuse treatment for incarcerated individuals with a dual diagnosis of chemical dependency and HIV disease.

Final

SIXTH PRESIDENTIAL ADVISORY COUNCIL ON AIDS

April 5-8, 1997

Recommendations on Needle Exchange

The PACHA commends the Secretary of Health and Human Services and the Department of Health and Human Services on the Report to Congress on Appropriation for the Department of Labor, Health and Human Services Agencies: Needle Exchange Programs in America: Review of Published Studies and Ongoing Research which acknowledges the efficacy of syringe exchange programs to reduce the transmission of HIV.

WHEREAS, this report to the Congress confirms that syringe exchange programs reduce the rate of new HIV infections among injection drug users, and further confirms that such programs constitute a sound public health practice as part of an overall effort to reduce the incidence of new HIV infection; and

WHEREAS, the Secretary's report found no evidence which established that syringe exchange programs increase drug use; and

WHEREAS, a panel of nongovernmental public health experts convened by the National Institutes of Health found no scientific or medical evidence that syringe exchange programs increase drug use; and

WHEREAS, the President has set a goal of reducing the number of new infections each year until there are none; and

WHEREAS, the President has established a drug policy seeking to reduce the prevalence and incidence of drug abuse through prevention, counseling and treatment;

WHEREAS, syringe exchange programs and appropriate and effective substance abuse treatment and counseling efforts provide a unique opportunity to reduce the incidence of substance abuse and the number of injection drug users;

THEREFORE, we strongly recommend that the President ensure that the Secretary of Health and Human Services take all necessary steps to promptly certify syringe exchange programs as effective in reducing the incidence of new HIV infections while not increasing substance abuse; thus, the use of federal funds for syringe exchange and substance abuse counseling and treatment programs must be permitted in those communities that determine such programs to be appropriate.

Final

PRESIDENTIAL

ADVISORY

COUNCIL ON

HIV/AIDS

May 6, 1997

The Honorable William Jefferson Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

On February 7, 1997, the Office of National AIDS Policy Director Patsy Fleming met with representatives of this Council and representatives of several Federal agencies to discuss elimination of discrimination against those infected with HIV. I am writing to you to express our deep concern about the lack of progress by those Federal agencies toward elimination of discriminatory policies. You will remember that almost three years ago you asked this Council to meet with you to discuss issues of major concern regarding HIV/AIDS. One of the most critical issues raised was the previously established policy of several Federal agencies (i.e., the U.S. Foreign Services, the Peace Corps, the Job Corps, the U.S. State Department, and the Military) requiring mandatory HIV testing, and exclusion of those found to be HIV positive.

At that time, you expressed your concern about and disapproval of such policies and instructed your staff to investigate those policies and report back to you. We are dismayed that the February 7, 1997 meeting clearly confirmed that policies requiring mandatory testing and exclusion from entry of all applicants found to be HIV positive continue in these agencies. The policies of these Federal agencies represent a disturbing aberration from the general application of HIV/AIDS employment practices by the vast majority of federal agencies.

We are also concerned that those already employed by such agencies who later test positive face discrimination in assignments, promotions, and career advancement opportunities. Particularly in light of the promise offered by new treatment options, these policies serve to deprive qualified HIV-positive individuals equal employment opportunity and to deprive the federal government of the contributions those individuals could be making as dedicating public servants.

808 17th Street, N.W., 8th Floor
Washington, DC 20006

The Council has little optimism that without your intervention these discriminatory policies might be changed. We would therefore urge, Mr. President, that you renew your instructions for review and reconsideration of such policies. It is only through such action that your commitment "to fight AIDS related discrimination at every turn" contained in your National AIDS Strategy can be realized.

Your Council stands ready to assist in any way you deem appropriate.

Thank you for your consideration and concern.

Sincerely,

R Scott Hitt

R. Scott Hitt, MD
Chair, on behalf of the members of
the Presidential Advisory Council
on HIV and AIDS

Presidential Advisory Council on HIV and AIDS

Stephen N. Abel, D.D.S.
Mr. Terje Anderson
Ms. Judith Billings
Mr. Nicholas Bollman
Mr. Tonio Burgos
Jerry Cade, M.D.
Rabbi Joseph Edelheit
Mr. Robert Fogel
Ms. Debra Fraser-Howze
Ms. Kathleen Gerus
Ms. Phyllis Greenberger
Mr. Bob Hattoy
Mr. B. Thomas Henderson
R. Scott Hitt, M.D., Chair
Michael Isbell, J.D.
Mr. Ronald Johnson
Mr. Jeremy Landau
Alexandra Mary Levine, M.D.
Mr. Steve Lew
Ms. Helen H. Miramontes
Rev. Altagracia Perez
Michael Rankin, M.D.
Mr. H. Alexander Robinson
Ms. Debbie Runions
Mr. Benjamin Schatz
Mr. Richard W. Stafford
Ms. Denise Stokes
Ms. Sandra Thurman
Bruce Weniger, M.D.

THE WHITE HOUSE

WASHINGTON

April 23, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: **Bruce Reed**

SUBJECT: **Potential Policy Announcements for the Summit**

The following are potential policy announcements you could make at the upcoming Summit on service and in the radio address on Saturday.

RADIO ADDRESS

You will announce that we are sending our America Reads legislation to the Hill, and use that opportunity to emphasize AmeriCorps' role in America Reads. You can also talk about your vision of the Summit and highlight America Reads as a great example of meeting the Summit's challenge on volunteering, tutoring, and literacy. In addition, you can announce that Federal agencies are making a "commitment" to the Summit that they will expand the number of schools that they have adopted or established partnerships with from approximately 1,500 schools to 2,000 schools by the year 2000. Working through partnerships established by their agencies, Federal employees tutor, purchase equipment, and hold career days.

MONDAY SPEECH AT SUMMIT

When you laid out your original vision of national service back in 1992, you set forth two fundamental principles that captured the public imagination: first, that <u>all</u> young Americans willing to give something back should have the chance to get help for college; and second, that we should challenge those young people to help solve our toughest problems, "as teachers, police officers, child care workers -- doing work our country desperately needs," as you said in the first Georgetown speech.

AmeriCorps, though still a well-kept secret, has gone a long way toward realizing your overall ideal of citizen service. But for budgetary and partisan political reasons, it will not become universal anytime soon, and because of its decentralized structure, AmeriCorps has not succeeded in marshaling a nation-wide effort to target a compelling national problem like education or crime.

Your speech in Philadelphia is a chance to breathe new life into that original ideal. We can't escape the budgetary constraints, but we can give more young people an incentive to serve, and most important, we can set forth a clear national mission of the problems we need them to solve. The following proposal are designed with that in mind.

1. Interest-free Year of Service
As you know, Rev. Tony Campolo has urged you to make it easier for college students and recent graduates to take a year off for service. Thanks to your income-contingent loan program and to earlier changes allowing loan deferments for service, students can already take advantage of reduced loan payments if they take low-paying service jobs, and can take time off for service without having to begin repayment of their loans. Your FY98 budget also includes a proposal to encourage service by no longer treating loan forgiveness as taxable income, so that students who universities forgive their loans will no longer have to pay taxes on it.

The only remaining barrier is the interest that accumulates on unsubsidized loans during the period of service. The cost of having the Federal government pay that interest is minimal -- $7 million over 5 years. This is an inexpensive proposal, and the typical benefit is not enormous, but it would make this policy universal, and it would allow any young person to take time off to serve without increasing his or her debt burden. The Education Department has expressed some concerns about this.

2. Police Corps
You can announce $20 million in grants to 17 states for the Police Corps program. The Police Corps was created in your 1994 Crime Bill to increase the number of community police officers with advanced education and training, and was one of your pledges during the 1992 presidential campaign.

The Police Corps offers educational assistance to qualified college students who commit to enter the police after graduation and serve in the force for at least four years. Students accepted into the Police Corps receive up to $7,500 in educational assistance for up to four years of undergraduate study. In addition, Corps recruits receive 16 weeks of rigorous training to help make them effective community police officers. As an incentive to police departments to take recruits, state and local law enforcement agencies receive cash assistance for employing Police Corps officers -- $10,000 per participant for each year of the recruit's service.

This announcement nearly triples the number of states that will receive Police Corps funds, from 6 to 17 states, and is double the funding appropriated in FY 1996 for the program. It will fund about 650 recruits. Your FY 1998 budget contains $20 million in funding for Police Corps.

3. Teacher Corps
We believe your Summit speech should include a ringing call to service for young people to teach in inner cities. Nothing would do more to breathe new life into the ethic of service than to enlist young Americans in a national effort to transform inner-city schools that are crying out for their energy, idealism, and talent.

One way to do this would be to announce the proposal described below, which provides $400 million over four years in incentives for approximately 48,000 new teachers. If this seems too costly to propose in the current budget environment, it could be ramped up more slowly at about half the cost and impact. You could also propose a more modest expansion of AmeriCorps' support for Teach for America, as long as we also address quality concerns about that program. Alternatively, your speech could simply include a strong call to young people to take up the challenge of teaching in inner cities without proposing a new initiative to provide federal support. Such an initiative could still be included in the Administration's Higher Education Act proposal, which will be transmitted this summer.

Over the next decade, the nation will need to hire some 2.3 million teachers. Of these, approximately 15%, or 345,000 (approximately 35,000 per year), will be hired in central cities, in schools with large concentrations of low income students. An additional 207,000 (approximately 20,000 per year) will be needed in isolated, and often poor, rural areas. These types of communities face the greatest difficulties in attracting and retaining qualified teachers. Urban areas in particular receive significantly fewer applications for positions than neighboring suburban districts, and attrition rates in urban areas can often reach 30% to 50% in the first five years. They are therefore most likely to fill classroom vacancies with teachers who lack preparation, don't meet licensure requirements, or who are teaching outside their field. As a result, the students in these communities -- who need the *most* qualified teachers in order to meet higher academic standards -- often get exactly the opposite in the classroom.

We propose a new national effort to help attract and retain teachers in high poverty central city and rural schools. This new initiative would be a part of the Administration's proposal for the reauthorization of Title V of the Higher Education Act. The basic framework for this initiative could be announced at the summit, while many of the details could be further developed by the Education Department over the coming months.

This initiative would provide competitive grants to 100 local partnerships involving urban or rural school districts and institutions of higher education, to be used to provide incentives for individuals to prepare to teach, and to remain, in underserved schools. These would include 2-3 year fellowships for undergraduate students (including for a "5th year" program that provides intensive and sustained classroom experience for undergraduates after they have acquired a strong liberal arts background); one-year graduate fellowships for post-baccalaureate students, including recent liberal arts graduate and mid-career professionals seeking to enter teaching; stipends for teachers' aides and other education paraprofessionals seeking to move up a career ladder into full teaching positions; and 1-2 year "residencies" for beginning teachers that would provide a lighter teaching load coupled with additional time for class preparation, being coached or mentored, or working in other ways with more experienced teachers.

The incentives would range from fellowships that cover tuition and fees (which average $3,500 at undergraduate public institutions) to forgivable loans to salary supplements for beginning teachers. Successful competitors would have to demonstrate that they have a high quality teacher preparation program, and that the program fits into a comprehensive, thoughtful strategy for recruiting and retaining teachers.

The Education Department proposes to fund this initiative at $100 million a year for five years, beginning with the FY1999 budget. The Education Department estimates that this initiative will help attract and retain at least 48,000 teachers into high poverty central city and rural schools. This is approximately 17% of the estimated need in those communities. This is not an issue for this year's appropriations battles, and we have not tried to identify a specific offset. However, it will compete with your other discretionary priorities in the out-years. If you wish to proceed, we will work with OMB to determine what funding level we can commit to right now, recognizing that the parameters of NDD spending may change before we submit the FY99 budget.

We are also exploring ways to link this initiative to AmeriCorps, which already provides scholarships (but no stipends) to 1,000 teachers in Teach for America. As you know, Teach for America has been fairly successful in capturing the imagination of the public and of college students, but to this point has not provided the preparation and support those new teachers need to succeed in the classroom and remain in the profession. We could use existing scholarship funds to expand AmeriCorps' commitment to Teach for America, but we should also look for ways to make sure that preparation needs are addressed.

4. Child Care Corps

You could also announce that you will expand AmeriCorps to include a new child care corps. The child care field has great difficulty attracting and retaining qualified workers, especially well-educated and trained workers who can go on to become leaders in the field. Your recent conference on early learning was the latest confirmation that it is critical to increase the quality of child care. Yet very few of our most talented young people enter this field.

The program would offer AmeriCorps scholarships to individuals who agree to work in child care in low-income areas for two years. It would be open both to those currently working in the field and to those seeking to enter. Members of the corps would not get a stipend from AmeriCorps, but a scholarship of $4,725 a year for two years, which could be used either to repay existing student loans or to pay for further education. Some of these scholarships could be earmarked to help people leaving welfare to get college training to become child care workers.

The Corporation for National Service estimates that it could support a corps of 2,000 people a year without any increase in their budget or permission from Congress, as long as these individuals get only scholarships and not stipends as well. Under pressure from members of Congress to reduce the cost of an AmeriCorps member, the Corporation has begun to emphasize these "scholarship only" awards, and its scholarship trust fund has excess funds.

Non-profit groups would apply to become part of this program, and would have to demonstrate that they could offer participants high-quality training and mentoring during their two years of service, including development of management and leadership skills. In addition, corporations could sponsor members by paying for their salaries, and universities that specialize in early childhood education could match our scholarships.

5. Mentoring/Tutoring 1 Million Kids
In preparation for the Summit, Federal agencies have joined their counterparts in the private and non-profit sectors by making public "commitments" to the goals of the Summit. Agencies have identified over 40 initiatives where they will work with partners in the volunteer or service sectors to mentor and tutor kids, expand afterschool programs, and offer young people opportunities to serve. We are trying to determine whether these commitments add up to an additional 1 million kids being mentored or tutored as a result of Federal government efforts.

FIRST LADY SPEECH AT CLOSING CEREMONY
The First Lady will represent the Administration at the closing ceremony on Tuesday. We are exploring the option that she could announce Kaiser Permanente's commitment of $100 million over the next five years to provide health coverage to 50,000 children in California.

THE PRESIDENT HAS SEEN
4/15/97

Q: What does VP/Orszag group say? —

File:
(1) POTUS memos
(2) Children's Health

THE WHITE HOUSE

WASHINGTON

April 11, 1997

Might want to ease burden a bit by requiring (1) analysis of impact on kids (2) explanation of why preferable to reasonable alternatives — lighten burden a bit w/out (2) below

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN

SUBJECT: Executive Order to Protect Children from Health/Safety Risks

If limited to significant magnitude of potential impact on kids, [illegible]

As a lead-in to the zero-three conference next week, you are tentatively scheduled to sign an Executive Order directing agencies to enhance their efforts to protect kids against environmental health and safety risks. There is broad agreement about most elements of the E.O., but disagreement as to the pivotal section, Section 5. The attached memo seeks your approval of one of three options concerning Section 5.

Background. The proposed E.O. is designed to ensure a more coordinated approach to children's issues by (1) requiring all agencies to make protection of children a high priority in carrying out their statutory responsibilities and overall missions; (2) creating an interagency Task Force to establish a coordinated research agenda and initiatives for the Administration; and (3) requiring agencies to analyze and explain the effects of their regulations on children. It is this last requirement that is the subject of disagreement.

Section 5 -- Federal Regulatory Analysis. As drafted, Section 5 would require agencies to (1) assess the effects of proposed regulations on children if the proposed regs are economically significant and may have a disproportionate impact on kids; (2) assess the effects of reasonable alternatives to the planned reg that provide more or less protection for children than the planned reg; and (3) explain why the planned reg is preferable to the alternatives. Pros and cons are laid out in detail in the memo, but, in essence, the options and arguments are:

This is somewhat limiting

Option 1 -- approve proposed Order with Section 5 as drafted. Proponents argue that Section 5 provides the teeth to ensure that agencies will adhere to the policy of the Order and that without it the Order would be regarded as largely hortatory. *Supported by DPC and CEQ.*

Option 2 -- omit Section 5. Opponents argue that this is a novel requirement with unpredictable consequences, that it would impose a significant new regulatory burden, and that the requirement to explain why a more protective alternative wasn't chosen will open agencies to undue criticism. They argue that rather than imposing a new requirement in the E.O., the Task Force should consider appropriateness of regulatory standards. *Supported by Treasury, Commerce and HHS.*

Option 3 -- modify Section 5. The requirement that agencies analyze the effects of a proposed regulation on children would be retained, but the requirement for agencies to analyze more or less protective alternatives and to justify their decisions would be omitted. *Supported by NEC.*

Option 1 ✓ Option 2___ Option 3___ Discuss ✓

Copied
Reed
Sperling
McGinty
CMS

THE PRESIDENT HAS SEEN
4/15/97

THE WHITE HOUSE

WASHINGTON

April 10, 1997

'97 APR 10 PM6:53

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Katie McGinty

SUBJECT: Executive Order to Protect Children From Environmental Health Risks and Safety Risks

You are tentatively scheduled to announce on April 16 an Executive Order, attached to this memo, directing agencies to enhance their efforts to protect children from environmental health and safety risks. Announcement of the Executive Order would immediately precede the White House Conference on Early Childhood Learning and Development.

There is broad consensus among agencies on the broad policy objectives of the proposed Executive Order, but three agencies -- Treasury, Commerce, and HHS -- have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. DPC and CEQ strongly support issuing the Executive Order in its current form. In addition, all White House offices working on the Conference on Early Childhood Learning and Development would like you to issue the order in its current form, as part of a set of executive actions showing your commitment to protecting children. OMB's OIRA (Sally Katzen) also endorses the order because it advances the Administration's efforts to protect children, but believes that the decision to go forward must recognize that the order will impose additional burdens on agencies and inevitably lead to more stringent regulatory standards over time. NEC favors a compromise proposal discussed in the last section of this memo.

BACKGROUND

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health risks and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more in proportion to their weight, exposing them to greater amounts of

THE PRESIDENT HAS SEEN
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contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (*e.g.* navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have documented an alarming increase in the incidence of conditions in children that may be linked to environmental health risks and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

Make part of speech

In many areas, your Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, which has been the subject of extensive discussion with affected agencies, would fill this gap with provisions to address each of these areas.[1]

Policy: The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

Research Coordination: The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to communicate with the public regarding these efforts.

Federal Regulatory Analysis: Most notably, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. It is this part of the Order to which Treasury, Commerce, and HHS have objected -- perhaps not surprisingly, given that it imposes additional analytic requirements on agency rulemaking.

[1] This Executive Order would supersede President Reagan's Executive Order on Families, replacing it with a policy that better reflects the priorities of your Administration.

ISSUE FOR DECISION

Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children when deciding on major regulations.

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, if the regulation is economically significant and the agency has reason to believe that it may have a disproportionate impact on children. Agencies would have to: 1) evaluate the effects of the planned regulation on children; 2) similarly assess the effects of reasonably feasible alternatives to the planned regulation; and 3) explain why the planned regulatory action is preferable to these other options.

Arguments For Inclusion of Section 5

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health. It makes concrete and gives effect to the overall policy of the Order to identify and assess risks to children.

- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children,* have highlighted the need to link regulatory decisions to available data and, where there is a lack of data, to a research agenda. Section 5 is the provision of the order that best ensures that agencies will make this link.

- Section 5 provides the structure and enforcement mechanism (through OMB oversight) necessary to ensure that agencies adhere to the general policy of the Executive Order. Without Section 5, the Executive Order's terms are largely hortatory.

- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.

- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.

- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.

Arguments Against Inclusion of Section 5

- Section 5 imposes a novel requirement on major rulemakings, with unpredictable consequences. The task force created by the proposed Executive Order should consider over time and with the benefits of experience the appropriateness of regulatory standards.

- Requiring agencies to acknowledge that a proposed regulation is not the most child-protective is likely to have a distorting effect on regulatory decisions. The result will be greater pressure on agencies to "ratchet up" their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration's program of regulatory reform.

- There is only limited experience with analyzing regulations in terms of risks to children, and this approach is not always well-received. Critics may cite costly Superfund cleanups based on the potential exposure of children to toxic waste sites, and analytical flaws in the public health data supporting EPA's recent Clean Air Act proposals on ozone and particulate matter.

- In cases where the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a basis on which to criticize the agency's decision. (Some agencies characterize this as a "kick-me" requirement.) Requiring this analysis also may strengthen legal challenges to agency regulations, as requiring any regulatory analysis does.

- The regulatory resources of many agencies are already stretched thin, and blanket application of a new regulatory requirement could divert already tight resources and delay ongoing programs.

- Regulatory agencies have made important strides in this area and should have the opportunity to demonstrate this progress to the interagency task force before any regulatory requirements go into effect.

POSSIBLE ALTERNATIVE

The only compromise available is to retain Section 5, but include only the general requirement that agencies analyze the effects of a proposed regulation on children. This proposal would delete the explicit requirements that agencies undertake a comparative analysis and provide a justification for their decision This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

DECISION

______ Approve the Executive Order as drafted

______ Modify Section 5 of the Executive Order

______ Omit Section 5 of the Executive Order

ATTACHMENT

Proposed Executive Order