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Bcc:
Subject: re: hot issues
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Attached and below are q&a's I prepared and reviewed by Carol Williams on the New York issue:

New York and new Adoption Law
12/23/98 5:22 PM

Q What is happening with New York and the new adoption law?

A With bipartisan support, the Congress passed and President Clinton signed into law the Adoption and Safe Families Act of 1997. The law made sweeping changes to the foster care and adoption program. The new adoption law placed the safety of children as a priority, tightened the time frames for children to reach permanent homes, reduced the obstacles for children to be adopted and established unprecedented financial incentives to states to increase adoptions of children from foster care. All states were required to make similar changes to their state laws to comply with the federal statute. HHS is serious about states enacting the changes timely. States have different deadlines to enact laws depending on the schedules of their legislatures. New York's deadline is January 1, 1999. Though most states have made the necessary changes, New York State has not yet. HHS has informed the state on numerous occasions that the deadline is approaching and offered assistance. The department also notified New York that it could be liable for a penalty if the state did not comply. HHS is committed to working with New York to ensure that these important provisions for children are enacted in timely way.

Q What is the penalty?

A Across the country, state child welfare agencies and state legislatures have worked cooperatively and in a bipartisan way to introduce and enact legislation to comply with the new adoption law. HHS is serious about states enacting the new provisions timely. The department has held numerous regional conferences and provided direct assistance to help states. There was and is a consensus that the new law made important changes to improve the welfare of children. States have vigorously moved to pass their state laws. Before a financial penalty would be imposed, states have the opportunity to prepare corrective action plans with a reasonable time period to enact the required new provisions. HHS will strongly encourage any state to prepare a plan, as the administration's goal is to get this new law working quickly for children. States could be subject to a financial penalty of some or all of their federal foster care and adoption funds for failing to enact the new law's provisions.

Q What are the provisions that states have to enact?

A Among the provisions that states have to change their laws is two major ones: safety for children and time frames for permanency plans. The new adoption law clarified for states that the priority in decisions for children at risk of harm is their safety. States must change their law provisions regarding the reasonable efforts in reunifying a child with his or her birth family that safety is a "paramount" consideration in placement and reunification decisions. States must also shorten the time frame for developing permanent plans for children -- such as adoption or returning the child to the birth family -- to 12 months from 18 months. States also have to develop an adoption plan concurrently with a plan to reunify children with birth families.

Q How many states have made the changes?

A Twenty-eight states have enacted the adoption law provisions. The remaining states have either enacted laws under review by HHS, passed laws awaiting a governor's signature, their legislatures still in session or their legislature has not yet met.

Q Is New York the only state to not comply?

A Yes, New York will be the first state that has not yet met its deadline to comply with the new adoption law.

Q New York City says the state could lose millions of dollars. How much federal money does the state receive? When would the State lose the dollars?

A In 1997, New York State received over \$450 million in federal funds for its foster care and adoption assistance program. New York is not at risk of losing federal funds immediately. The State does have the opportunity to submit a corrective action plan with a reasonable time period to enact the new adoption law provisions. HHS is committed to working with New York to ensure that these important provisions for children are enacted in timely way.

Q We heard that HHS said that the deadline for the state was April. How come you are now saying January 1.

A The deadline for New York is January 1, 1999. There was an unintentional mistake made when the April was mentioned.

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May 13, 1997

MEMORANDUM

TO: Elena Kagan
Jen Klein
FROM: Nicole Rabner
RE: Adoption

When adoption was considered as a theme for the the President's recent radio address, I had asked HHS to prepare Q&A addressing the department's progress in implementing the objectives spelled out in the *Adoption 2002* report. They sent the attached, which I thought you might like to see before our meeting with HHS tomorrow.

Adoption 2002 questions and answers**** for internal use only ****

Q Have you made substantial progress in fulfilling the recommendations in the "Adoption 2002" report?

A Yes. Of the 32 recommended tasks contained in the "Adoption 2002" report, the administration has made progress on nearly all of them. Several of the main recommendations -- including financial incentives to the states that increase adoptions, making child health and safety paramount in placement decisions, and expediting the placement of children in permanent homes -- require action by the Congress. We're pleased to say that the House of Representatives already has passed legislation incorporating these critical changes, and we expect the Senate to consider our recommendations soon. The strong bipartisan leadership on these issues, lead by Representatives Camp (R-MI) and Kennelly (D-CT) and Senators Chafee (R-RI), Rockefeller (D-WV), Dewine (R-OH) and others, is extremely encouraging.

Several of our recommendations require modest new funding. We're hopeful that these initiatives will be funded this year as well.

Q What are the differences between the Senate bill and the House passed one?

A Both the House bill (HR 867) and the Senate bill (S.511) are critically important to meet our goal of doubling the number of children adopted or placed in other permanent homes by the year 2002. In addition, both bills emphasize the paramount importance of a child's safety and clarify that there are circumstances in which family reunification may not be reasonable or appropriate.

The Senate bill also would provide new federal resources for training those who work with abused and neglected children, for reunification services and for substance abuse prevention services. While it would encourage states to increase adoptions, it does not include the financial bonuses included in the House bill.

Q I understand that the Senate bill has included more funding than the House version. Do you support the additional funding?

A The President's budget proposes funds for bonuses for states that increase the number of children adopted and \$21 million to support grants to reduce barriers to adoption and to provide them with increased training and technical assistance. Our first priority is to ensure that these funds are appropriated.

Cost estimates are not yet available for S. 511. We are not in a position to answer this question until we have received the estimates and reviewed them carefully.

Q What have you done on establishing baseline data on the number of adoptions and proposed increased targets to the year 2002 to reach doubling the number of children adopted?

A The goal that the "Adoption 2002" report seeks is a doubling of the number of children adopted from the public foster care system. To accomplish that goal, HHS drafted guidelines and is developing plans for consulting directly with the states in the near future on the specific target numbers for each state.

Q What about the financial bonuses for states?

A There has been enthusiastic support for the financial bonuses, and we're especially pleased that they were incorporated into The Adoption Promotion Act (HR 867).

Q The report included a recommendation for an annual state-by-state report on the progress of these efforts. When will the first report be issued?

A The first report will be released in the Spring of 1999. We're also pleased that the Adoption Promotion Act also included a requirement for the report to begin in May 1999.

Q The report suggested several recommendations on providing technical assistance, including new grants. What is the status?

A The President's FY98 budget includes a request of \$10 million for grants to states to expand technical assistance to meet the goals of doubling the number of children adopted or permanently placed. These new funds are critically important and will build upon our current Resources Centers and other efforts.

Q Many have been critical of HHS for dragging its feet in preparing and sending to the states a guidance on the new transracial adoption law. When will it be ready?

A When the Interethnic adoption provisions were enacted into law, HHS sent a notice to the states that the law has been strengthened to prevent the delay and/or denial of placement of children with foster or adoptive families for reasons related to race or ethnicity. The major change in the new law is states are now subject to specific penalties for failing to comply. HHS will release a guidance shortly to the states on the new provisions.

Q Also on transracial adoptions, the report recommended several other actions, including revising the way HHS monitors states, providing technical assistance and continuing expeditious reviews of individual complaints. What is the status of these efforts?

A HHS is working diligently to revise monitoring procedures, which will be published for public comment as a Notice of Proposed Rulemaking. When the guidance is issued, the Department will provide technical assistance on the interethnic adoption provisions to ensure compliance. The HHS Office of Civil Rights has swiftly investigated the few individual complaints presented to the department.

Q The report suggested recognizing states and others who make significant contributions to increasing adoptions. When will the first awards be made?

A The administration is looking forward to presenting the first recognition awards in November 1997. There is no funding required for these awards.

Q The report recommends that HHS issue new and continuing grants under the Adoption Opportunities program to assist states and communities in overcoming the barriers to adoption for special needs children. When will the grants be awarded?

A We expect that the announcement for up to 25 new awards will be published this month and granted in September 1997.

Q When will grants be issued to states on innovative ways to reduce barriers to adoption and reform the work of adoption services as proposed by the report?

A The President's FY98 budget requests \$10 million to support grants for states. The Senate's bill (S. 511) contains a similar proposal.

Q Are you working with states to fully implement the Court Improvement Program as recommended?

A Yes. The Court Improvement Project is fully operational in almost every state, and the assessment reports which are now coming in to HHS from the State Courts offer an opportunity to capitalize on the excellent start made by many of the Court systems. In addition, HHS established a work group with the Department of Justice to assist in reviewing the State Courts' self-assessments and to formulate a plan for the identification of promising models.

Q One of the major recommendations of the report was to change the time frame for a child's hearing from 18 months to 12 and the name of the hearing to "permanency planning hearing." Does the Adoption Promotion Act include these recommendations? Also, when will HHS send a guidance to states on these changes?

A The administration is very pleased that the Adoption Promotion Act included these core recommendations to changing the way the child protective system works to speed up the time for a child's case and give a child more hope for a timely permanent home. HHS worked closely with the bill's sponsors on the language in the legislation. The department will issue a guidance to the states as quickly as possible following the enactment of the new law.

Q Has the administration convened the forum of legal professionals to work with the courts to improve their role in getting children permanent homes quicker?

A HHS and the Department of Justice are working together to convene the forum shortly.

- Q When will the administration disseminate information and examples of reforms derived from the Court Improvement Project and from the HHS/Justice Department work group, as recommended in the report?
- A We expect to receive assessments from the states and courts by the end of June 1997. The programs are funded through fiscal year 1999. At that time, we will have complete information on model programs and practices to share. Formation of the Justice Department/HHS court improvement work group is under way.
- Q The report recommended that the President communicate with state courts and national legal organizations to elevate the importance of child welfare proceedings in courts. What is the status?
- A HHS is working with the Department of Justice to prepare proposed communications for the President.
- Q There were several recommendations in the report to clarify and change the definition of "reasonable effort." What progress has been made on this issue?
- A There was nearly unanimous consensus that the current law does not provide sufficient clarity on how states should interpret "reasonable efforts" for protecting children and reunifying them with their parents. The "Adoption 2002" report noted that there was considerable uncertainty in the field about the meaning of the requirement that reasonable efforts should be made to keep or reunite children with their families, and as a result children in some cases remained in inappropriate circumstances. We are very happy that language which would clarify the purpose and set parameters for such determinations has been included in the Adoption Promotion Act and in the Senate's bill. The bipartisan support for these changes in both the House and the Senate is heartening. Also, the department is working on model guidelines for states on the termination of parental rights.
- Q There was a recommendation to work with states to use the Federal Parent Locator Service to help locate absent parents or relatives who may provide a permanent home for a child when he or she enters foster care. Is this happening?
- A Yes. HHS is working with several states on a pilot. Also, we're pleased that the encouragement for states to use the FPLS -- which is operated by the HHS Office of Child Support Enforcement to track down delinquent parents not paying their child support -- was included in the Adoption Promotion Act bill.
- Q The report contained several recommendations on studying and evaluating alternative placements -- namely guardianship -- for children. What steps has the administration taken in this area?

- A Under current law, HHS has authority to approve waivers to develop innovative child welfare programs to up to 10 states. Currently HHS has granted 6 waivers. Three of these states waivers (in Delaware, Illinois and Maryland) will study the potential for guardianship arrangements to ensure permanent homes for abused or neglected children. Also, HHS is completing two research studies on the role of kinship care -- family members as foster parents -- which will be published in June and September 1997. One of the recommendations was to consider a limited expansion of the child welfare waivers authority.

We're pleased that both the House and Senate bills will allow HHS to test innovative child welfare demonstrations in 5 additional states, with one reserved for a demonstration on kinship care.

- Q Will there be a public awareness campaign as recommended by the report?

- A The President's FY98 budget requests \$1 million for a national public education and awareness campaign on adoption. The campaign will promote the importance and benefits to both children and families of adoption and recruit potential adoptive families. While awaiting the budget decisions, HHS has already installed a new web site which includes information on adoption, how to become an adoptive parent and the "Adoption 2002" report. The site can be reached through the White House web site (www.whitehouse.gov).

- Q The report suggested disseminating information about the new adoption tax credits. What is the status?

- A Last year, President Clinton signed into law a new tax credit to encourage and help families adopt children. The credit of up to \$5,000 (\$6,000 for special needs children) is available to families who earn up to \$115,000 aggregate gross income. HHS has worked with the IRS to publicize the tax credit. An IRS publication will be sent out this month. Also, the IRS publication about the tax credit can be obtained through the IRS and HHS web sites.

- Q What efforts have been undertaken to identify and recognize private companies with model policies to encourage and help families adopt?

- A The Departments of Labor and Commerce are the lead agencies in this effort and will begin working together shortly.

- Q The report also recommended that information and support be provided to federal employees. What is the status?

- A HHS is working with the Office of Personnel Management to develop information and events. An adoption fair for federal employees is scheduled for June.