

**From:** "Bennett, Jessica C."  
**To:** "Hughes, Taylor A.", "Jackson, Barry S.", "Smith, Heidi M.", "Hook, Brian H.", "Silverberg, Kristen", "Riepenhoff, Allison L.", "Kavanaugh, Brett M.", "West, Christal R.", "Weinstein, Jared B.", "Boyer, Matthew W.", "Kropp, Emily L.", "Katz, Jeremy L.", "Ralston, Susan B."  
**Subject:** Night Note 5/9  
**Sent:** Mon, 9 May 2005 18:46:10 -0500  
[Pending Issues- 5-9.doc](#)  
[POLICY TIME CALENDAR- 5-9.doc](#)  
[Working Group Calendar- 5-9.doc](#)  
[Cabinet Member Schedule- 5-9.doc](#)

**Pls note- this information is sensitive; eyes only**

Attached are the Pending Issues, the Policy Time Calendar for this month, the Working Group Calendar for this week and next, and the Cabinet Member Schedule for the following week.

Thanks,  
Jessica  
x61475

May 9, 2005

MEMORANDUM FOR ANDY CARD, KARL ROVE, JOE HAGIN, and MIKE GERSON

FROM: KRISTEN SILVERBERG, BRIAN HOOK and JEREMY KATZ

RE: NIGHT NOTE

**Legal Reform.** DPC will convene a Principals meeting to discuss options for new policy including: Steps to strengthen Rule 11; adoption of the English Rule in some contexts; and regulatory preemption of some state law cases related to federally-regulated products.

**Bioethics.** DPC has staffed a memo to the President recommending that the President call for legislation to prohibit fetal farming, commoditization of embryos and animal-human hybrids. The President approved these items just before the SOTU. There is a strategic question whether to call for legislation on these items before the stem cell vote in the House or after. There are sufficient votes in the House to overturn the President's stem cell policy. The new proposals could give more Members cover to vote to overturn the stem cell policy (because they could support the new items and claim to be strong on bioethics). However, waiting to support the new proposals could fuel the impression that the stem cell vote defines the entire bioethics agenda.

**Civil Service Reform.** We are scheduling a Principals' meeting in the Chief's office next week to discuss OMB's proposal for changes to the civil service system. Specifically, the proposal would implement performance-based pay, give managers more flexibility to deal with poor performers, and make changes to labor-management relations to give agencies more flexibility to make decisions outside of collective bargaining. Similar changes are being implemented at DHS and DOD through regulation.

**First Responder Funding.** On Thursday, the House will consider legislation by Chairman Cox that would change the formula for first responder grant funding. The bill would allocate funding to areas based on risk. Our SAP, which will be cleared later this evening, will be supportive. The Senate authorizing bill sponsored by Collins, which has been passed out of committee, makes some modest changes in this direction.

**CAFTA.** The WH convened a principals meeting on CAFTA. Four CA President's visited three U.S. cities (Miami, San Diego, and LA). President Saca of El Salvador meets with Governor Richardson tonight in Albuquerque. Tomorrow six Presidents will visit seven different cities. Wednesday, there is a breakfast at the Pentagon with Rumsfeld to highlight the security message and meetings with Hastert and Frist plus 18 other members of Congress. Zoellick will deliver a foreign policy speech at Heritage next Monday. Portman will have an op-ed in the WSJ on Tuesday.

## Other Issues

- Amtrak (Sharp/DPC; Hook)
- Avian Flu (Hook/DPC; Katz) – HHS has submitted a funding proposal for the purchase of 1 million courses of Tamiflu for FY05. In addition, the supplemental includes \$58 million for pandemic countermeasures.
- Byrd Amendment (Hunter/NSC; Katz) – Trading partners are likely to retaliate in the coming months against the U.S. for the Byrd Amendment. The Administration supports repeal, although congressional support for full repeal is unlikely. NSC and Treasury are considering other possible legislative approaches.
- Campaign Finance Reform (Ho/DPC; Hook) – The Senate Rules Committee reported McCain’s 527 bill.
- Climate Change (CEQ; Hook) -- Senator Hagel will hold a hearing on his climate bill on May 19. The first panel will include witnesses from DOE, USAID and State.
- Community College Initiative (Sharp/DPC; Hook)
- Cooperative Conservation event (Pinero/DPC; Hook) -- CEQ is on schedule for a three-day conference at the end of August in St. Louis. CEQ is leading interagency teams to finalize case studies, select presenters, and decide on cabinet-level speakers.
- *Corporation for Public Broadcasting (Russell/NEC; Katz) – Richard Russell and Tevi are attempting to set up an introductory phone call with the Chairman in the near future to discuss his reform efforts.*
- Crime/Guns/Lautenberg (Ho/DPC; Hook) – DOJ/OLP has formed a study group with the FBI to review the GAO report. The OLP group has developed its recommendations, which will be reviewed by the AG before they are shared with the WH.
- EEO-1 (Sharp/DPC; Hook) – EEOC gave us a cost estimate of compliance with the proposed new form. OIRA is working with EEOC to confirm the numbers. Once completed, DPC will meet with Barry and others to review the numbers.
- EEOC Definition of “Applicant” (Sharp/DPC; Hook) –DOL will submit an NPRM informally at the end of the month; formally submit in May; and shoot for final publication at the end of May.
- Economic and Community Development (Halaska/DPC; Hook) – Deputies met on 5/5 and recommend adopting a longer-term legislative strategy on the Strengthening America’s Communities Initiative. We would use this year to identify a champion in the Senate, possibly Senator Allard, to hold hearings that highlight the problems with existing economic development programs. We will likely ask him to conduct a GAO study on the effectiveness of CDBG and other Federal grant programs. Additionally, we will develop our proposed legislation, cultivate outside groups, and develop a one-year communications strategy to pave the way for authorizing legislation next year.
- Endangered Species Act (CEQ; Hook) – Congressional staff (Jeffords, Inhofe, Clinton, Chafee, and Crapo) have met with an array of stakeholders (enviros, industry, property rights groups) to discuss parameters for legislation.
- FAA (Sharp/DPC; Hook)
- Faith Based Initiative (Towey/ OFBCI; Hook) – We are opposing the Green legislation.
- FDIC (Warsh/NEC; Katz) – On Friday NEC convened a working group meeting with OVP, OMB, CEA and Leg to discuss Shelby’s willingness to consider raising coverage limits. There is agreement within the EOP that this is bad policy, although Snow believes that the other reforms in the bill are sufficiently significant that we should accept some

coverage increases if necessary. The working group will reconvene on Monday to discuss options. Hubbard will call Shelby to make it clear we view raising the coverage limits as bad policy. At some point in the next few weeks NEC will hold a principals meeting.

- FECA Reform (Sharp/DPC; Hook) – The Administration’s bill has completed OMB clearance. DOL is developing its rollout plan in conjunction with DPC. DOL is looking for sponsors before they send the bill to the Hill.
- Federal Sentencing Guidelines (Ho/DPC; Hook) – The Supreme Court held that the Federal Sentencing Guidelines are advisory only. The DAG has forwarded a package of options to the AG to address the decision. The matter is still pending before the AG.
- FOIA (Troy/DPC; Hook) – *Harriet spoke with Sen. Cornyn on Friday to express concerns with his proposal. We have a conference call tomorrow morning to discuss next steps.*
- FMLA (Sharp/DPC; Hook) – DPC recently convened a deputies meeting on possible regulatory revisions to the Family and Medical Leave Act. DOL owes DPC a cost/benefit analysis for each of the reforms they are proposing and DPC will use those to drive a decision.
- G-8 (Shirzad/NSC; Silverberg) – The U.K. is expected to propose a number of measures we would oppose including dramatic increases in funding for Africa (as much as \$25b/year more from developed countries) as well as a post-Gleneagles process on Climate Change that could morph into a neo-Kyoto.
- GSEs (Warsh/NEC; Katz) – *On May 19<sup>th</sup> Greenspan will deliver a speech on portfolio limits. Harvey Rosen plans to submit an op-ed on GSEs just before Greenspan’s speech. There may be a mark-up at the end of the month in the House Financial Services Committee.*
- Head Start (Halaska/DPC; Hook) – Rep. Castle has introduced the House version of the Head Start reauthorization bill. It does not include our state option. DPC will continue to work with Chairman Boehner’s staff to include our reforms. The full committee will mark up on the 18<sup>th</sup>, and it should be the on House floor in June.
- Health IT (Hall/DPC; Katz) – Karl is going to call Leavitt to let him know that we would like more internal discussion before we roll out the new Health IT initiative.
- *Helping America’s Youth Initiative (Medina/DPC; Hook) – The First Lady’s office hosted a meeting today to discuss possible events this summer.*
- *Immigration (Ho/DPC-Blore/HSC; Hook) – The Immigration Reform Team meets tomorrow to review the progress made by the working groups over the last week and decide what will be presented to principals on Wednesday.*
- *Indian Trust/Cobell (Ho/DPC; Hook) – DPC hosted an internal meeting to further discuss legislative options. OMB presented various options and will provide more detail on each proposal to DPC this week.*
- Judicial Security (Ho/DPC; Hook) -- DOJ is performing a top-to-bottom review of the protection offered to Federal judges and their families by the Marshal's Service. That review is expected to be complete at the end of May, when recommendations to ensure best practices will be forwarded to the AG. In the meantime, the Marshal's Service continues to coordinate with federal judges to ensure that they and they families receive adequate and appropriate protection.
- Medicaid Commission (Badger/NEC; Katz) – Leavitt and WH met on Friday to discuss the mission and makeup of the Medicaid Commission. HHS plans a Federal Registry

notice next Friday and the appointments on June 1<sup>st</sup> to announce next week that a panel has been created and will announce 15 panel members around June 1<sup>st</sup>. We've asked PPO to get sign off on appointment from the CoS's office. Leavitt has a preliminary list that has Former Gov Jim Edgar as Chair and Former Gov John Kitzhaber as Vice-Chair. NEC voiced concerns about the makeup of the panel and its mission. Barry also voiced suggestions on additions to the panel as well as composition of the advisory structure which currently designates the Kaiser Commission, AEI, NGA and Members of Congress as advisors to the panel.

- Medicare Drug Implementation (Jackson/OSA; Katz) – There is a possible POTUS event in June, but no date is fixed.
- MCC (Shirzad/NSC; Silverberg)
- Native Hawaiians (Ho/DPC; Hook) – We are encouraging outside groups to weigh in against the legislation.
- OCS 5-year Oil and Gas Leasing Plan (Hannegan/CEQ; Silverberg) – We are exploring the question whether Florida waters are best defined based on the Seaward Lateral Boundary, which is the boundary defined in the Law of the Sea Treaty.
- Patriot Act (Ho/DPC; Hook) – Principals met to discuss reauthorization and legislative strategy. Communications will prepare a document for use in making the case for reauthorization. DOJ will identify briefers for OPL. OLA is working on a target's list.
- Pensions (Hennessey/NEC; Katz) – DPC/NEC is considering convening another airline pensions working group meeting next week, but OLA believes that the House and Senate may not take up reform legislation until mid-to-late summer.
- Perkins (Medina/DPC; Hook) – The Voc Ed bill based the House 416-9 on 5/4 (notwithstanding the Administration's negative SAP). Boehner is still committed to seek changes in Conference, but significant changes seem very unlikely.
- Personal Stockpiles (Rapuano; HSC; Silverberg) – HHS will present a proposal to HSC by May 13<sup>th</sup>.
- Plan B (Hall/DPC; Hook)
- *Postal Reform (Sharp/DPC; Hook) – Candi hosted a meeting today to discuss legislative strategy. OMB prepared a draft SAP that was used as a discussion piece at the meeting. It was decided that OMB would take another look at the costs associated with the bills and determine if any flexibility is warranted. Jess is meeting tomorrow with Sen. Collins' staff to discuss alternative arrangements to escrow funding.*
- Roadless Rule (CEQ; Hook) -- The Agriculture Department announced the roadless rule on 5/5. The final rule allows governors to petition the Secretary of Agriculture to formulate state-specific rules for managing inventoried roadless areas in their states.
- *Ryan White (Thompson/DPC; Katz) – DPC has scheduled a meeting on Thursday on the full domestic aids package (Ryan-White and meth). ONDCP is circulating a report from a working group to the AG and Director Walters that outlines a strategy on meth.*
- School Choice (Medina/DPC; Hook) – DPC met with Education to discuss school choice and Education is coming up with a menu of options to promote school choice at the Federal level.
- Secure Flight (Sharp/DPC; Hook) – TSA is expecting to issue an Interim Final Rule in mid-June compelling airlines to submit their passenger manifests. OIRA has concerns that DHS discussed the program in a Wolf Blitzer interview, although the policy is not yet cleared. DHS responded that they cleared the talking points through WH press. We urged WH Press and Policy to more closely coordinate.

- Security Clearances (Johnson/OMB; Katz) – OMB hosted a Deputies meeting on Thursday and resolved major issues concerning the EO. OMB will work with WH Counsel's office on a final EO and then put through staffing. OVP's office may have concerns with the language of the EO but has not been at the working group meetings.
- Skull Valley (NEC; Katz) – Kristen and Matt Kirk met on May 2 with Hatch and Bennett staff to discuss the proposed nuclear storage site. We expect an NRC decision by May 27. We have asked WHC and CEQ for the answers to a number of follow-up questions. We recommend a discussion between Secs. Norton and Bodman and Karl and Andy in the near future.
- Steroids (Ho/DPC; Hook) -- Chairman Davis and Rep. Waxman have drafted legislation that would regulate steroid use in Major League Baseball, the NFL, the NBA, the NHL, and other professional sports. The ONDCP director would set standards and enforce the standards with civil penalties. Davis and Waxman may introduce their bill as early as next week. ONDCP has conveyed opposition to the bill. They are planning to reach out to McCain to convey concerns with his bill as well.
- Tax Reform (Reardon/NEC; Katz) – The Tax Reform panel announced on Thursday the 25-person witness list for their May 11<sup>th</sup>-12<sup>th</sup> meeting in Washington. The list includes John Podesta, Steve Forbes, Dick Armey, Stephen Moore and Glenn Hubbard. May 11<sup>th</sup> will focus on specific options for tax reform, and May 12<sup>th</sup> will focus on business tax reform proposals.
- Terrorism Risk Insurance Reauthorization (Warsh/NEC; Katz) – WH Leg and NEC participated in Terrorism Risk discussions with Shelby and Oxley staff jointly. A Treasury report on the program is due June 30, 2005, but the WH expects to receive a draft report in mid-May.
- Tricare Rx (Hall/DPC; Katz) – The Coalition for Government Procurement filed suit against the DOD/VA in U.S. District Court on March 24.
- Union Financial Transparency (Sharp/DPC; Hook) – OIRA has begun its review of the proposed rule and has asked DOL for stronger justification. OMB is working with DOL to improve the rule in anticipation that it will undergo OMB clearance.
- *United Nations (Abrams/NSC; Silverberg) – NSC will convene a meeting tomorrow to discuss Security Council reform.*
- Veterans (Hall/DPC; Hook)
- *VNRs (Brosnahan/WHC; Silverberg) – As part of the subcommittee mark of Head Start, Castle is planning to include the Byrd Amendment (prohibiting prepackaged news stories without attribution) as well as language banning the hiring of any journalists or commentators for purposes of publicity. We have concerns about his language. WHC is reviewing. We are preparing for a Senate hearing later this week on the subject at which witnesses are expected to be critical of the Administration.*
- Welfare Reform Bill (Halaska/DPC; Hook)

## POLICY TIME - MAY 2005

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
8	9 NO TIME  TRAVEL  H: Pro Forma S: Highway Bill	10 NO TIME  TRAVEL  H: Suspensions S: Conf. Report	11 NO TIME  TRAVEL  H: Gang Deterrence S: Conf. Report	12 1:20-2:05pm DPC: Bioethics (45 min)  H: First Responders S: Conf. Report	13 1:05-1:50pm Rove (45 min) TBD	14
15	16 1:55-2:40pm Rove (45 min) TBD	17 1:30-2:15pm Rove (45 min) TBD  H: Conference Reports	18 3:10-3:55pm Rove (45 min) (TBD)  H: Conference Reports	19 NO TIME  TRAVEL H: Conference Reports	20 1:50-2:35pm Rove (45 min) TBD	21
22	23 2:40-3:25pm NEC: Social Security (45 min)  S: NDAA	24 2:30-3:15pm Rove (45 min) TBD  H: CAFTA S: NDAA	25 10:45-11:30am Rove (45 min) TBD  S: NDAA	26 1:05-1:50 pm Rove (45 min) TBD  S: NDAA	27   S: NDAA	28
29	30 Memorial Day  Congressional Recess	31  Congressional Recess				

5/9/2005

**Issues for future policy times: CAFTA; FB/Charities; Air System Challenges; Highway Bill; Postal; Appropriations Issues; FTA  
Priorities**

## Working Group Calendar

Monday, May 9	Tuesday, May 10	Wednesday, May 11	Thursday, May 12	Friday, May 13
8:15 NEC: Social Security Conference Call	8:15 NEC: Social Security Conference Call	8:15 NEC: Social Security Conference Call	8:15 NEC: Social Security Conference Call	8:15 NEC: Social Security Conference Call
11:00 DPC: Postal Strategy (KS and BH)	10:00 INA WG- PCC (JK)	11:30 HSC: NSTAC Annual Principals Mtg w/ VP	9:30 DPC: AIDS Package (KS)	11:00 Policy Deputies- DC (KS, JK, and BH)
11:30 LSG on Social Security (KS)	10:00 Immigration Reform Team- PCC (BH)	1:00 Medical Capacity (KS)	1:00 DPC: Asbestos Conference Call- PCC (KS)	3:30 DPC: Steroids Policy (BH)
12:00 HSC: Information Sharing- PCC	11:00 NEC: FDIC Reform (JK)	1:15 HSC: NSTAC Executive Session	1:00 HSC: TWP- PCC (BH)	3:30 NEC: Soc Sec Principals- PC (KS)
3:00 DPC: Legal Reform- DC (KS)	11:15 DPC: Schaffer v. Weast	2:00 HSC: Maritime Security- PCC	2:00 DPC: TWP- PCC (BH)	
4:00 OCL: CAFTA PC Conf Call (JK)	2:00 HSC: National Animal Identification Program	2:30 HSC: PTEE- PCC	2:15 OCL: Regulatory Issues w/ DHS- PCC (KS)	
	3:00 NSC: CAFTA- PCC (JK)	3:00 OCL: Immigration- PC (KS)	4:00 OCL: CAFTA PC Conf Call (JK)	
	3:00 HSC: Real IP and VWP Update	4:30 DPC: New Partner's Initiative- PCC (KS)	5:30 LSG on Social Security (KS)	
	4:00 HSC: DC on General Aviation at Reagan National Airport			

## Working Group Calendar

Monday, May 16	Tuesday, May 17	Wednesday, May 18	Thursday, May 19	Friday, May 20
8:15 NEC: Social Security Conference Call	8:15 NEC: Social Security Conference Call			
11:30 LSG on Social Security (KS)	1:00 HSC: TWP- PCC (BH)	4:30 AG re: Methamphetamines (KS)	1:00 DPC: Asbestos Conference Call- PCC (KS)	11:00 Policy Deputies-DC (KS, JK, and BH)
4:00 OCL: CAFTA PC Conf Call (JK)	2:00 DPC: TWP- PCC (BH)		4:00 OCL: CAFTA PC Conf Call (JK)	1:00 HSC: TWP- PCC (BH)
	3:00 NSC: CAFTA- PCC (JK)		5:30 LSG on Social Security (KS)	2:00 DPC: TWP- PCC (BH)

OFFICE OF CABINET LIAISON



CABINET MEMBER SCHEDULE

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TUESDAY 05/10/2005

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**Secretary Spellings**

11:15am – 12:15pm      **CL Conf Room**      Schaffer v. Weast Meeting

*Participants:*

White House

Claude Allen, DPC

Tevi Troy, DPC

Kristen Silverberg, CoS's Office

Sonya Medina, First Lady's Office

Jennifer Brosnahan, WH Counsel's Office

Education

David Dunn, CoS

Kent Talbert, Deputy General Counsel

John Hager, Assistant Secretary for the Office of Special  
Education and Rehabilitative Services

Justice

Paul Clement, Acting Solicitor General

David Salmons, Assistant to the Acting Solicitor General

**Director Walters**

b(6)

**Secretary Johanns**

4:00pm – 4:45pm      **CL Conf Room**      Ag Kitchen Cabinet Meeting

*Participants:*

White House

Jim Connaughton, CEQ  
Kevin O'Donovan, OVP  
Chuck Conner, NEC  
Megan Hauck, OLA  
Peter Rowan, OLA  
Marcus Peacock, OMB  
David Anderson, CEQ

USDA

Dale Moore, CoS  
Drew DeBerry, WH Liaison

4:45pm – 5:00pm

**Room 166**

Office Time

5:00pm – 5:30pm

**Room 166**

Meeting with Candi Wolff – Courtesy

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**WEDNESDAY 05/11/2005**

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**Secretary Bodman**

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**Secretary Rice, Attorney General Gonzales, Secretary Gutierrez, Secretary Chao, Secretary Chertoff, and Director Bolten**

3:00pm – 4:00pm

**CL Conf Room**

Immigration Principals Meeting

*Participants:*

White House

Karl Rove, Deputy CoS  
Harriet Miers, Counsel  
Steve Hadley, NSC  
Fran Townsend, HSC  
Candi Wolff, OLA  
Claude Allen, DPC  
Harvey Rosen, CEA  
Ken Rapuano, HSC  
Kristen Silverberg, CoS's Office  
Allyson Ho, DPC  
Ben Powell, Associate Counsel  
Brian Hook, CoS's Office

Homeland

Sigal Mandelker, Advisor

Justice

Rachel Brand, Acting Assistant Attorney General, Legal Policy

Labor

Ronnye Stidvent, Assistant Secretary for Policy

OMB

Steve McMillin, Associate Director, General Government Programs

State

Philip Zelikow, Counselor

**Secretary Chertoff**

4:15pm – 4:30pm

**CL Conf Room**

Meeting with Claude Allen – Courtesy

4:45pm – 5:00pm

**1FL/WW**

Meeting with Karl Rove – Courtesy

**Secretary Chao**

4:15pm – 5:15pm      **Room 166**      Meeting with Dr. Graham – Revised Peer Review Requirements

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**THURSDAY 05/12/2005**

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**Director Walters**

9:30am – 10:30pm      **Room 166**      ONDCP Fiscal Year 2007 Budget Guidance to Drug Control Policies

**Secretary Spellings**

10:00am – 12:00pm      **CL Conf Room**      Office Time

**Secretary Leavitt**

1:20pm – 2:05pm      **Oval Office**      Policy Time with POTUS - Bioethics

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**FRIDAY 05/13/2005**

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**Attorney General Gonzales**

1:40pm – 2:25pm      **Oval Office**      Policy Time with POTUS – Legal Reform

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**MONDAY 05/16/2005**

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**Secretary Jackson**

12:00pm – 1:00pm      **WH Mess**      Lunch with Harriet Miers and Richard Hauser

**Secretary Bodman**

3:00pm – 3:30pm      **1 FL/WW**      Meeting with Steve Hadley