

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 5/10
Sent: Tue, 10 May 2005 19:19:47 -0500
[Pending Issues- 5-10.doc](#)
[POLICY TIME CALENDAR- 5-10.doc](#)
[Working Group Calendar- 5-10.doc](#)
[Cabinet Member Schedule- 5-10.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 10, 2005

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

FROM: KRISTEN SILVERBERG, BRIAN HOOK and JEREMY KATZ

RE: NIGHT NOTE

Asbestos. RAND released a study today finding that more than 730,000 people in the U.S filed claims for asbestos-related injuries from the early 1970s through the end of 2002, costing businesses and insurance companies more than \$70 billion. Approximately 8,400 entities have been named in lawsuits. Claimants have received only 42 cents of every dollar spent on asbestos litigation. Thirty-one cents has gone to defense costs, and 27 cents has gone to plaintiffs' attorneys and other related costs. The study said that the trust fund proposal "must address difficult issues such as how much is needed to pay future claims and how much each contributor should pay" and that there were controversies regarding eligibility criteria. Regarding the medical criteria approach, RAND observed that costs to defendants could be quite high and that "such a system would require the fewest changes, but it would prevent many asbestos-exposed workers from seeking compensation."

United Airlines Pension. This afternoon, a federal bankruptcy judge approved United Airlines' plan to terminate its employees' pension plans. The ruling shifts responsibility for United's four defined-benefit plans to the PBGC and will result in a partial loss of benefits from some workers. United will save roughly \$645 million per year. United's pensions are underfunded by an estimated \$9.8 billion, of which the PBGC would guarantee only about \$5 billion. The labor unions have threatened to strike if the plans are terminated, claiming that a plan termination amounts to an abrogation of the collective bargaining agreement. The judge, in ruling for United, said that the decision did not constitute an abrogation of the CB agreement by United, as an implicit caution against an illegal work action.

FDIC. NEC convened a working group meeting with OVP, OMB and CEA to discuss next steps. They have convened a principals meeting for Friday. The working group recommends drawing a hard line against any increase in coverage limits. If we have to go along with raising coverage limits, the working group believes: a) it should be done through indexing without initial changes to the baseline; b) any increases via indexing should be prospective and subject to the discretion of the Chairman of the FDIC; and c) it should apply only to retirement accounts.

CAFTA. USTR and WH leg believe we could count on only 14 -15 Democratic votes and 180 from Republicans. Grassley has informed us that he would like to present a "mock mark-up" on May 24th and would like our sign off by next Monday. A Principals meeting is tentatively set for next Monday. Tomorrow, the World Bank will release a new study highlighting the benefits of CAFTA on the developing world.

BRAC. DOD will brief WH and agency IGA offices tomorrow regarding the process on BRAC and the economic assistance available to affected communities. No specific communities will be identified at the meeting; the briefing is procedural only. We have asked DPC to work with DOD to ensure that the economic assistance material includes resources from other agencies.

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.
- Bioethics (DPC; Silverberg) – 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.
- 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 has reported McCain’s 527 bill.
- Civil Service Reform (Sharp/DPC; Hook) -- 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.
- 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.
- 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.
- First Responder Funding (Nielsen/HSC; Hook) -- 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 is supportive. The Senate authorizing bill sponsored by Collins, which has been passed out of committee, makes some modest changes in this direction.
- FOIA (Troy/DPC; Hook) – Harriet spoke with Sen. Cornyn on Friday to express concerns with his proposal.
- 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) – We are meeting with NSC and others tomorrow to discuss possible global health initiatives we can use to go on the offense at the G-8.*
- *Gang Deterrence (Ho/DPC; Hook) – A SAP is in staffing supporting HR 1279, the Gang Deterrence and Community Protection Act. The bill expands Federal laws targeted at gang activities and increases Federal sentences. We expressed concern with the section of the bill that creates a new grant program at DOJ because we prefer the President’s initiative. We expect the bill to be considered tomorrow.*
- GSEs (Warsh/NEC; Katz) – On May 19th 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 18th, and it should be the on House floor in June.
- *Health IT (Leggitt/DPC; Katz) – Karl spoke to Secretary Leavitt regarding WH concerns with his initiative. DPC will prepare for a Principals’ meeting as soon as the Secretary returns from a trip.*
- Helping America’s Youth Initiative (Medina/DPC; Hook) – The First Lady’s office hosted a meeting today to discuss possible events this summer.
- *Highway Bill (Sharp/DPC; Hook) – Sen. Frist acknowledged today that he does not have enough votes to maintain our budget number and the Senate may pass an authorizing bill \$11.2 billion more than our request. Frist wants to complete debate on the bill this*

week. A vote is expected tomorrow on a budget point of order, which Sen. Gregg will raise. OMB is working on an analysis of the Grassley add-on to provide ammunition to Gregg and to our communicators.

- *Immigration (Ho/DPC-Blore/HSC; Hook) – The Immigration Reform Team met today to review the progress made by the working groups on border security issues and on matching willing workers with willing employers. The Principals meeting tomorrow has been postponed because of a conflict with the President’s schedule and will be rescheduled for Thursday or Friday.*
- *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.*
- *Judges (WHC; Hook) – Sen. Frist said today that after the Senate completes consideration of the highway bill next week he will begin moving our judicial nominees to the floor.*
- *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.*
- *Legal Reform (Ho/DPC; Silverberg) -- 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.*
- *Medicaid Commission (Badger/NEC; Katz) – HHS is planning to place a notice regarding the Medicaid Commission in the Federal Register and to solicit nomination for Members. The request for nominations will close after 15 days at which point the Secretary can designate the new commission members. We have asked NEC to circulate a memo to senior staff in advance of the announcement.*
- *Medicare Drug Implementation (Jackson/OSA; Katz) – There is a possible POTUS event in June, but no date is fixed.*
- *MCC (Shirzad/NSC; Silverberg)*
- *Methamphetamine (Leggitt/DPC; Silverberg) - DPC, OLA, ONDCP are close to resolution on legislative principles to combat methamphetamine trafficking and abuse. The principles under discussion include new restrictions on retail sales of over-the-counter pseudoephedrine products as well as providing DEA with better import controls for bulk pseudoephedrine and ephedrine products.*
- *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.*
- *“Open Loop” Technology (Hannegan/CEQ; Katz) - Earlier this year, CEQ chaired interagency discussions to resolve issues regarding the permitting of LNG facilities in the Gulf of Mexico. The resolution was to issue the license for Shell’s Gulf Landing facility and to allow Shell to use “open loop technology,” even though open loop technology kills a large number of fish. As part of the agreement, Shell was required to take other*

action to mitigate impact on fish. The same issue is now presented with respect to the Compass Port LNG facility. CEQ will be convening a meeting between Coast Guard/DHS, DOT, EPA, and NOAA to discuss the Compass Port project.

- 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 targets' 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 passed the House bill 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 (Rapuno; HSC; Silverberg) – HHS will present a proposal to HSC by May 13th.
- Plan B (Hall/DPC; Hook)
- Postal Reform (Sharp/DPC; Hook) – Candi hosted a meeting on 5/9 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. DPC and OMB are jointly drafting a memo to represent our negotiating position.
- 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 (Hannegan/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 begins their 2-day meeting on May 11th-12th meeting in Washington. The 25-member witness list includes John Podesta, Steve Forbes, Dick Arme, Stephen Moore and Glenn Hubbard. May 11th will focus on specific options for tax reform, and May 12th will focus on business tax reform proposals. The panel will have another meeting on May 17th and bring in experts including Marty Feldstein and former Republican and Democratic Assistant Secretaries for Tax Policy.*
- *Terrorism Risk Insurance Reauthorization (Warsh/NEC; Katz) – NEC will convene a Deputies meeting on Friday. 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 (Leggitt/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.*
- *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				

5/10/2005

**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)	11:30 NEC: TRIA- PCC (JK)
12:00 HSC: Information Sharing- PCC	11:00 DPC: Head Start Conf Call (KS)	1:15 HSC: NSTAC Executive Session	1:00 HSC: TWP- PCC (BH)	3:30 DPC: Steroids Policy (BH)
3:00 DPC: Legal Reform- DC (KS)	11:00 NEC: FDIC Reform (JK)	2:00 HSC: Maritime Security- PCC	2:00 DPC: TWP- PCC (BH)	3:30 NEC: Soc Sec Principals- PC (KS)
4:00 OCL: CAFTA PC Conf Call (JK)	11:15 DPC: Schaffer v. Weast	2:30 HSC: PTEE- PCC	2:15 OCL: Regulatory Issues w/ DHS- PCC (KS)	
	2:00 HSC: National Animal Identification Program	3:00 OCL: Immigration- PC (KS)	4:00 OCL: CAFTA PC Conf Call (JK)	
	3:00 NSC: CAFTA- PCC (JK)	4:30 DPC: New Partner's Initiative- PCC (KS)	5:30 LSG on Social Security (KS)	
	3:00 HSC: Real IP and VWP Update			
	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

WEDNESDAY 05/11/2005

Secretary Chertoff

8:15am – 9:00am **Room 166** Office Time

Secretary Bodman

b(6)

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, Counsel's Office

Brian Hook, CoS's Office

Homeland

James McCament, Policy 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

THURSDAY 05/12/2005

Director Walters

8:30am – 9:30am **CL Conf Room** ONDCP Fiscal Year 2007 Budget Guidance to Drug Control Agencies

Participants:

White House

Claude Allen, DPC

Mike Gerson, OPSP

Jim Towey, Faith-Based Initiatives

Tevi Troy, DPC

Barry Jackson, Office of the Sr. Advisor

William Kelley, Counsel's Office

Secretary Mineta

12:00pm – 2:00pm **Room 166** Office Time

Secretary Leavitt

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

FRIDAY 05/13/2005

No events scheduled

MONDAY 05/16/2005

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

T U E S D A Y 0 5 / 1 7 / 2 0 0 5

Secretary Jackson

9:30am – 11:30am **Room 166** Office Time

Ambassador Portman

2:30pm – 3:00pm **Room 350** Swearing-in Ceremony