

NLWJC - Kagan

DPC - Box 059 - Folder-004

Welfare - Charitable Choice



FEEDING THE FLOCK

Enabled by a new law, churches step into the gap left by the failure of traditional welfare

N A T I O N

By ADAM COHEN



DOING GOOD AT HOME: Floyd Flake

THE WAR ON POVERTY may be over, its soldiers in disarray and retreat, but the Rev. Floyd Flake, who is a departing member of Congress, seems not to have got the news. Flake's Allen African Methodist Episcopal Church in Queens, N.Y., with 9,000 members and a towering new \$23 million cathedral, operates a government-funded social-services network that would be the envy of

many municipal governments. The church's 30,000-sq.-ft. social-services center houses a city-funded walk-in clinic and federal Head Start classrooms at street level. On the center's second floor are a city-sponsored prenatal-counseling program for teen mothers, a state-sponsored housing and community-renewal program and offices for the federal Women, Infants and Children program. Scattered throughout the building, which is owned by the city of New York and managed by the church, are a city mental-health center and a state Stop Driving While Intoxicated program for drivers whose licenses have been suspended or revoked.

What's more remarkable, all this is only a small part of an Allen A.M.E. antipoverty

empire that sprawls across a 26-block stretch of southeastern Queens. To stroll the neighborhood is to see how much can be done when Caesar begins to render unto the church. Allen A.M.E. has used federal funds to provide the community's elderly with 300 subsidized apartments in the Allen Senior Citizens Housing Complex, along with meals and recreational activities. It has transformed abandoned city-owned lots and state mortgage subsidies into 50 affordable suburban-style two-family homes. Down the street from the church is a row of storefront offices offering everything from Medicaid-funded health care for the homebound to city-sponsored psychosocial services for the mentally ill. Flake, who this month announced that he is



ROOM FOR A FEW: These seniors pay 30% of their income for one of the 300 apartments in Allen A.M.E.'s Senior Citizens Housing Complex. Vacancies are rare, and the waiting list—with candidates' ranking based on need—is long



PROVIDING HOMES: Of the 50 two-family houses that make up Allen A.M.E. Hall Estates, not a single unit is owned by a member of the congregation. The suburban-style development was built on an abandoned city lot

aving Congress to devote himself full-time to his church job, says Allen A.M.E. has "taken an urban community that by the press's definition was blighted and turned it around. The best role for government is to be a partner in that process."

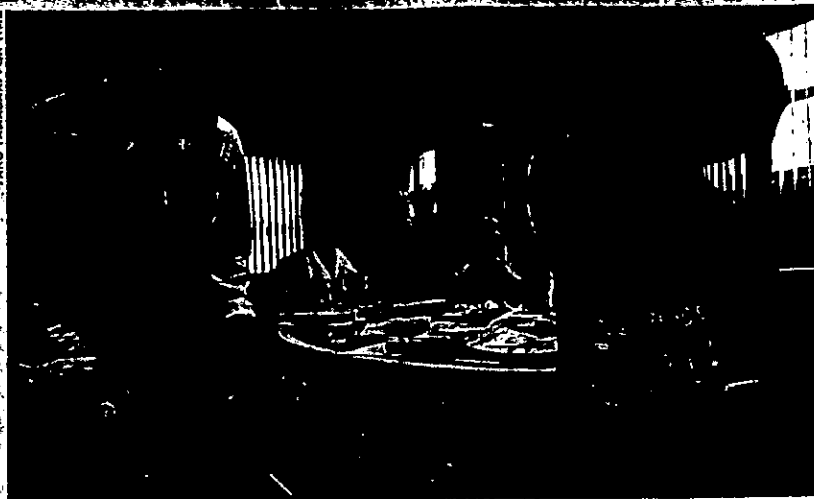
The future of America's antipoverty efforts may look a lot like Allen A.M.E. As the nation wrestles with how to reform a failed welfare system, and as more than 35 million Americans continue to live below the poverty line, government is increasingly asking churches to succeed where social workers and bureaucrats handing out checks have failed. State and local welfare departments are starting up innovative partnerships with religious institutions. And a little-noticed provision in last year's welfare-reform law called "charitable choice" has opened the door for the nation's 260,000 religious congregations to take a

far greater role in welfare programs: they can now solicit government funds directly rather than set up charitable subsidiaries. Supporters say the spirituality and fellowship offered by churches, combined with their community ties, provide the best hope yet of permanently turning around the lives of the poor. But critics say the new programs threaten to tear down the wall between church and state, and may actually harm the churches that participate.

The first wave of the new faith-based approach to poverty came at the state level, where some social-services departments began matching welfare recipients with participating churches. In Mississippi, Governor Kirk Fordice's Faith and Families program has paired 504 welfare families with 338 churches, which help them with everything from studying for the high school equivalency exam to honing job-interview skills.

Michigan's welfare officials have hired two umbrella religious groups to work with more than 100 churches on a similar program. Welfare recipients aren't required to attend church, but the idea is that the church will provide a sense of community and a support network that a welfare office typically does not. "The people in the faith-based institutions are truly interested in the participants," says special-programs manager Christine Poulsen, who coordinates welfare recipient-church partnerships for Maryland's Anne Arundel County. "The congregation becomes a minifamily" for those enrolled. The results in Anne Arundel have been impressive: 19 of the 26 welfare recipients who went through the program are now self-supporting.

For churches, there are two advantages to the new laws. They no longer have to set up secular arms, like Allen A.M.E.'s 11 non-



DETROIT

Project Zero, launched by the state a year ago, works with religious organizations to provide mentoring and job counseling to beneficiaries like Rashad Robinson and his mother

ARLINGTON, TEXAS

Tillie Burgin, a former missionary in South Korea who directs Mission Arlington, wonders, "If we can do missions abroad, why can't we do missions in Arlington?"



profit corporations or the Roman Catholic Church's Catholic Charities, to operate government-funded programs. Nor must they strip these programs of religiosity—cover religious symbols or remove evangelical tracts from waiting rooms—to participate. To its proponents, charitable choice is simply about treating churches equally. "Just because an organization has a cross hanging in its window doesn't mean we should discriminate against it and prevent it from helping people," says Representative J.C. Watts of Oklahoma.

Supporters argue that an approach that aims at people's hearts and focuses on spiritual renewal is better at turning troubled lives around, and there's some evidence for that. "No matter how much counseling, no matter how much social work we put into someone, until we give them something spiritual to fill that void, they won't really change," says the Rev. Ralph E. Williamson, a minister on the staff of the Mecklenburg County, N.C., department of social services with 23 years' experience in the field. "I always tell people that I can't bring salvation through the department of social services." In fact, many programs that aim at life transformation—most notably the hugely successful Alcoholics Anonymous—consider belief in a higher authority a critical component of change. Studies have found that Teen Challenge, a Christianity-based residential drug-treatment program with 130 centers in the U.S. and Puerto Rico, has a 70% success rate for those who finish the program, far better than secular treatments. Of course, helping the addicted is one thing, solving the problems of the poor is another.

But traditional welfare programs have failed so badly that any new option looks attractive. Texas was the state quickest to take up the possibilities offered by charitable choice. Last December, Governor George W. Bush directed state agencies to include religious institutions in the operation of their programs. In June, Bush signed legislation clearing the way for religious organizations to provide government-funded drug treatment, day care and faith-based prison ministries. Texas is the only state to allow a private Christian group, Watergate figure Charles ("Chuck") Colson's Prison Fellowship, to operate a voluntary prison-prerelease program. Bush also proposed privatizing the state's welfare system and allowing churches in effect to act as local welfare-service agencies.

ARRANGEMENTS LIKE ALLEN A.M.E.'S, in which government funds flow through nonreligious church-affiliated corporations, are relatively uncontroversial. But critics and civil libertarians say the new programs, in which churches become agents of the welfare system, are different. Welfare recipients may soon be forced to pray in order to receive benefits, they say, or to watch religious videos while they wait to talk to their caseworker. "I'm worried we will see tax dollars being used to evangelize as well as provide social services," says the Rev. Barry Lynn, executive director of Americans United for Separation of Church and State.

Others say that's a red herring. Catholic Charities receives more than \$1 billion a year in government grants, and no one has

accused it of proselytizing. Says Michael Brogioli, director of Catholic Charities State Welfare Reform Project: "Our job is not to preach the Gospel but to live it."

But critics fret that the law may permit churches to discriminate in hiring based on religion. Inevitably, that question and others will generate litigation. "The answers will be fact-bound," says University of Southern California law professor Erwin Chemerinsky. "But there are things these programs may do that courts will say you can't do."

Some of the strongest opposition to the new programs comes from religious leaders who are worried that the government is trying to lay the problems of the poor on the doorstep of the churches. Others fear they will be forced to water down their spiritual message and purge religious concepts like sin and God until their work begins to resemble any other bureaucratic undertaking. "The disease of compromising the message will not be felt immediately," says Phil Strickland, director of the Texas Baptist Christian Life Commission, the Southern Baptists' statewide public policy arm. "It will be like a cancer that grows in the body of the church until the health of the church is compromised." At the same time Governor Bush is encouraging Texas churches to participate in government human-services programs, Strickland is at work on a statewide mailing urging them to think twice before taking on social services. "This is going to be a huge temptation for churches," says Strickland. "But we're going to be raising the warning signals."

—With reporting by
Sally B. Donnelly/Washington, Hilary Hytton/
Austin and Aisha Labi/New York

Elena



PEOPLE FOR THE AMERICAN WAY ACTION FUND

Your Voice Against Intolerance

January 13, 1997

Via Facsimile

Elena Kagan
Assistant to the President for Domestic Policy
Office of Policy Development
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear Elena:

As we discussed in our phone conversation last Friday, January 10, a number of members of the Working Group for Religious Freedom in Social Services would like to meet with you to discuss the President's technical corrections proposal regarding the "Charitable Choice" provisions in Welfare Reform. The organizations' representatives at that meeting will be somewhat dependent upon when we schedule this meeting. Therefore, for now, I am only listing the organization names and will provide you with the names of the representatives once the date and time for the meeting has been arranged.

Those organizations which would like to attend our meeting are: the American Civil Liberties Union, the Anti-Defamation League, the American Jewish Committee, the American Jewish Congress, Americans United for the Separation of Church and State, the Baptist Joint Committee, the National Education Association, the Religious Action Center, and People For the American Way. Once you have coordinated a meeting time with the members of the Administration's staff who will be present, please contact me with a meeting time and I will coordinate with the groups listed above.

Thank you for scheduling this meeting. I look forward to receiving the details from you soon.

Sincerely,

Kathi S. Westcott
Senior Legislative Representative

People For the American Way Action Fund
2000 M Street NW Suite 400
Washington DC 20036

202 467 4999
202 293 2672 Fax

*Dianna -
Would you do me a favor
and set this up? You and
I should attend; if you
think there are others
who should be there
(perhaps Wendy White
from the committee
office), invite
them too.
Elena
cc: Bruce*

Date: January 27, 1997
To: Charitable Choice Meeting Attendees
From: Jennifer Bazzell (DPC)
Subject: Meeting Information

Attached are copies of the provisions and technical corrections to be discussed at today's meeting.

The meeting will be held in OEOP RM 180 at 2:00pm, as previously planned.

If you have any questions or need more information please call me at 456-5603.

Thank you.

1 section (b) of this section may use the amount in accordance
2 with section 404(d).

3 “(e) MAINTENANCE OF EFFORT.—The ceiling amount
4 with respect to a territory shall be reduced for a fiscal year by
5 an amount equal to the amount (if any) by which—

6 “(1) the total amount expended by the territory under
7 all programs of the territory operated pursuant to the pro-
8 visions of law specified in subsection (a) (as such provisions
9 were in effect for fiscal year 1995) for fiscal year 1995; ex-
10 ceeds

11 “(2) the total amount expended by the territory under
12 all programs of the territory that are funded under the pro-
13 visions of law specified in subsection (a) for the fiscal year
14 that immediately precedes the fiscal year referred to in the
15 matter preceding paragraph (1).”

16 (c) ELIMINATION OF CHILD CARE PROGRAMS UNDER THE
17 SOCIAL SECURITY ACT.—

18 (1) AFDC AND TRANSITIONAL CHILD CARE PRO-
19 GRAMS.—Section 402 (42 U.S.C. 602) is amended by strik-
20 ing subsection (g).

21 (2) AT-RISK CHILD CARE PROGRAM.—

22 (A) AUTHORIZATION.—Section 402 (42 U.S.C.
23 602) is amended by striking subsection (i).

24 (B) FUNDING PROVISIONS.—Section 403 (42
25 U.S.C. 603) is amended by striking subsection (n).

26 SEC. 104. SERVICES PROVIDED BY CHARITABLE, RELI-
27 GIOUS, OR PRIVATE ORGANIZATIONS.

28 (a) IN GENERAL.—

29 (1) STATE OPTIONS.—A State may—

30 (A) administer and provide services under the pro-
31 grams described in subparagraphs (A) and (B)(i) of
32 paragraph (2) through contracts with charitable, reli-
33 gious, or private organizations; and

34 (B) provide beneficiaries of assistance under the
35 programs described in subparagraphs (A) and (B)(ii) of
36 paragraph (2) with certificates, vouchers, or other

1 forms of disbursement which are redeemable with such
2 organizations.

3 (2) PROGRAMS DESCRIBED.—The programs described
4 in this paragraph are the following programs:

5 (A) A State program funded under part A of title
6 IV of the Social Security Act (as amended by section
7 103(a) of this Act).

8 (B) Any other program established or modified
9 under title I or II of this Act, that—

10 (i) permits contracts with organizations; or

11 (ii) permits certificates, vouchers, or other
12 forms of disbursement to be provided to bene-
13 ficiaries, as a means of providing assistance.

14 (b) RELIGIOUS ORGANIZATIONS.—The purpose of this sec-
15 tion is to allow States to contract with religious organizations,
16 or to allow religious organizations to accept certificates, vouch-
17 ers, or other forms of disbursement under any program de-
18 scribed in subsection (a)(2), on the same basis as any other
19 nongovernmental provider without impairing the religious char-
20 acter of such organizations, and without diminishing the reli-
21 gious freedom of beneficiaries of assistance funded under such
22 program.

23 (c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZA-
24 TIONS.—In the event a State exercises its authority under sub-
25 section (a), religious organizations are eligible, on the same
26 basis as any other private organization, as contractors to pro-
27 vide assistance, or to accept certificates, vouchers, or other
28 forms of disbursement, under any program described in sub-
29 section (a)(2) so long as the programs are implemented consist-
30 ent with the Establishment Clause of the United States Con-
31 stitution. Except as provided in subsection (k), neither the Fed-
32 eral Government nor a State receiving funds under such pro-
33 grams shall discriminate against an organization which is or
34 applies to be a contractor to provide assistance, or which ac-
35 cepts certificates, vouchers, or other forms of disbursement, on
36 the basis that the organization has a religious character.

1 (d) RELIGIOUS CHARACTER AND FREEDOM.—

2 (1) RELIGIOUS ORGANIZATIONS.—A religious organi-
3 zation with a contract described in subsection (a)(1)(A), or
4 which accepts certificates, vouchers, or other forms of dis-
5 bursement under subsection (a)(1)(B), shall retain its inde-
6 pendence from Federal, State, and local governments, in-
7 cluding such organization's control over the definition, de-
8 velopment, practice, and expression of its religious beliefs.

9 (2) ADDITIONAL SAFEGUARDS.—Neither the Federal
10 Government nor a State shall require a religious organiza-
11 tion to—

12 (A) alter its form of internal governance; or

13 (B) remove religious art, icons, scripture, or other
14 symbols;

15 in order to be eligible to contract to provide assistance, or
16 to accept certificates, vouchers, or other forms of disburse-
17 ment, funded under a program described in subsection
18 (a)(2).

19 (e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

20 (1) IN GENERAL.—If an individual described in para-
21 graph (2) has an objection to the religious character of the
22 organization or institution from which the individual re-
23 ceives, or would receive, assistance funded under any pro-
24 gram described in subsection (a)(2), the State in which the
25 individual resides shall provide such individual (if otherwise
26 eligible for such assistance) within a reasonable period of
27 time after the date of such objection with assistance from
28 an alternative provider that is accessible to the individual
29 and the value of which is not less than the value of the as-
30 sistance which the individual would have received from such
31 organization.

32 (2) INDIVIDUAL DESCRIBED.—An individual described
33 in this paragraph is an individual who receives, applies for,
34 or requests to apply for, assistance under a program de-
35 scribed in subsection (a)(2).

1 (f) EMPLOYMENT PRACTICES.—A religious organization's
2 exemption provided under section 702 of the Civil Rights Act
3 of 1964 (42 U.S.C. 2000e-1a) regarding employment practices
4 shall not be affected by its participation in, or receipt of funds
5 from, programs described in subsection (a)(2).

6 (g) NONDISCRIMINATION AGAINST BENEFICIARIES.—Ex-
7 cept as otherwise provided in law, a religious organization shall
8 not discriminate against an individual in regard to rendering
9 assistance funded under any program described in subsection
10 (a)(2) on the basis of religion, a religious belief, or refusal to
11 actively participate in a religious practice.

12 (h) FISCAL ACCOUNTABILITY.—

13 (1) IN GENERAL.—Except as provided in paragraph
14 (2), any religious organization contracting to provide assist-
15 ance funded under any program described in subsection
16 (a)(2) shall be subject to the same regulations as other con-
17 tractors to account in accord with generally accepted audit-
18 ing principles for the use of such funds provided under
19 such programs.

20 (2) LIMITED AUDIT.—If such organization segregates
21 Federal funds provided under such programs into separate
22 accounts, then only the financial assistance provided with
23 such funds shall be subject to audit.

24 (i) COMPLIANCE.—Any party which seeks to enforce its
25 rights under this section may assert a civil action for injunctive
26 relief exclusively in an appropriate State court against the en-
27 tity or agency that allegedly commits such violation.

28 (j) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PUR-
29 POSES.—No funds provided directly to institutions or organiza-
30 tions to provide services and administer programs under sub-
31 section (a)(1)(A) shall be expended for sectarian worship, in-
32 struction, or proselytization.

33 (k) PREEMPTION.—Nothing in this section shall be con-
34 strued to preempt any provision of a State constitution or State
35 statute that prohibits or restricts the expenditure of State
36 funds in or by religious organizations.

deleted, we would recommend deletion of item (3), as in the following proposed amendment.

Proposed amendment:

() ELIMINATION OF THIRD MAINTENANCE OF EFFORT REQUIREMENT FOR TERRITORIES.--Section 1108(e) is repealed.

Sec. 104: services provided by charitable, religious, or private organizations:

1. CLARIFICATIONS CONCERNING RELIGIOUSLY AFFILIATED PROVIDERS.

Problem: The Supreme Court has held that the Constitution does not preclude most organizations with religious affiliations from participating equally with other private organizations in public welfare programs, as long as such organizations do not engage in religious activities in using public funds. However, the Court has held that the government may not enlist pervasively sectarian organizations in administering welfare programs paid for with public funds.

Sec. 104(c) explicitly provides that TANF programs provided through religious organizations must be implemented in a manner consistent with the Establishment Clause of the Constitution. However, other provisions of sec. 104 and its legislative history could be read to be inconsistent with the constitutional limits. We recommend amending sec. 104 to clarify that it does not compel or allow States to provide TANF benefits through pervasively sectarian organizations, either directly or through vouchers redeemable with these organizations. In addition, we suggest an amendment to clarify that State funds received by an organization for the purposes of providing TANF services and benefits may not be used for sectarian purposes.

Proposed amendments:

() CLARIFICATIONS CONCERNING RELIGIOUSLY AFFILIATED PROVIDERS.--Section 104 of PRWORA is amended--

(1) in the heading, by striking "RELIGIOUS" and inserting "RELIGIOUSLY AFFILIATED";

(2) in subsection (a) (1) (A), by striking "religious" and inserting "religiously affiliated";

(3) in subsection (b)--

(A) by striking "to contract with religious organizations, or to allow religious organizations to accept" and inserting "to contract with religious organizations that are not pervasively sectarian, or to allow such religious organizations to accept; and

(B) by striking "religious character" and inserting "religious affiliation";

(4) in subsection (c)--

(A) by striking "religious organizations are eligible" and inserting "religious organizations that are not pervasively sectarian are eligible"; and

(B) by striking "religious character" and inserting "religious affiliation";

(5) in subsection (d) (1)--

(A) by striking "A religious organization" and inserting "A non-pervasively sectarian religious organization"; and

(B) by striking "the definition, development, practice, and expression of its religious beliefs" and inserting "its religious affiliation";

(6) in subsection (d) (2)--

(A) in the matter preceding subparagraph (A)--

(i) by striking "Neither" and inserting "To the extent such organization is not pervasively sectarian and complies with the limitation described in subsection (j), neither"; and

(ii) by striking "a religious organization" and inserting "such organization"; and

(B) in subparagraph (B), by inserting "all" before "religious";

(7) in subsection (e)(1), by striking "religious character" and inserting "religious affiliation";

(8) in subsection (f), by striking "its participation in, or receipt of funds from" and inserting "the participation of a non-pervasively sectarian affiliate in, or the receipt by such affiliate of funds from";

(9) in subsection (g), by striking "a religious organization" and inserting "an institution or organization";

(10) in subsection (h)(1), by inserting "described in subsection (b)" after "religious organization"; and

(11) in subsection (j), by striking "shall be expended for sectarian worship" and inserting "shall be used or expended for any sectarian activity, including sectarian worship".

File - W7 to Wk -
Charitable choice



THE PRESIDENT HAS SEEN
3-6-97

cc: Elena
C. Rice
L. Hogan
M. Echeverste
return
BR

CHIEF OF STAFF TO THE PRESIDENT
THE WHITE HOUSE

February 26, 1997

MR. PRESIDENT:

Please note the attached memo from Eli Segal describing the organization, mission, and short term action plan of "Work Now" -- a soon to be created 501(c)(3) organization whose founding board members will be the CEOs of the five companies you referenced in the State of the Union.

The central mission of "Work Now" will be "to help businesses of all kinds move people permanently from welfare to work."

501(c)(3) Board / Policy

Erskine

*When can we bring
off - need to see ASIA.*

BR

cc: John Podesta
Sylvia Mathews
Vicki Radd
Rahm Emanuel
Bruce Reed
Gene Sperling

ELI J. SEGAL

February 25, 1997

MEMORANDUM

TO: THE PRESIDENT

SUBJ: WORK NOW (WN)

This is a memo which goes to the organization, mission and short term action plan of WN (working title only). Its creation reflects one of the most hopeful reactions to your signing the welfare reform legislation and your frequent challenges to the business community that there is much it needs to do if we will truly "end welfare as we know it".

1. Organization

WN is a soon to be created 501(c)(3) organization. Its incorporators (and perhaps "Founding Board" members) will be the CEOs of the five companies you referenced in the State of the Union. It is unclear who will be the Chair, but his identity will be determined shortly.

The organization will be aggressively non-partisan, results driven and comparatively easy to join. It will be scrupulously independent, but its mission and its agenda will be completely consistent with your vision of welfare reform. I do not expect it to look for any government funds, at least at the beginning.

It will have a Board of Directors of about 15-20 composed of businesses of all sizes and from all sectors; some of its Board may include Governors and other prominent Americans. All companies will be encouraged to join, provided they are prepared to make a commitment to use their resources to help move people from welfare to work. One measure of success in WN's first year will be whether it can reach a membership of an agreed upon number of companies, perhaps 5000. Membership will not require payment of a fee.

2. Mission

A partial but intensive review of organizations engaged in welfare reform-related activities suggests one niche which is likely to represent the heart and soul of WN's

mission: to help businesses of all kinds move people permanently from welfare to work. WN's customer will be the businesses themselves, rather than welfare recipients, legislatures, Governors or state welfare agencies. WN will encourage, mobilize, reward and provide technical assistance to all of the following:

(a) large and small companies whose growth will depend on hiring and retaining substantial numbers of people for entry level positions (e.g., Burger King);

(b) other large companies without significant employment growth plans (e.g., Monsanto) or those with such growth plans but without a significant number of entry level positions (e.g., Microsoft); in all of these cases, WN will look to notions of corporate responsibility and moral suasion of companies and their vendors in designing a meaningful agenda; and

(c) a broad range of so-called "intermediaries" from temporary organizations like Manpower and Kelly (one of the largest growth categories in an era of downsizing) to for profit and not for profit organizations like America Works and Strive, springing up overnight in response to welfare waivers of recent years and the welfare reform legislation of 1996.

WN will not, of course, be indifferent to "the front end" of welfare reform: motivated, prepared welfare recipients. However, the more WN engages in activities at the front end, e.g. GED, literacy, mentoring, substance abuse treatment, job training and readiness, the more its mission is blurred and it invades the turf of others. One possible exception to this thrust may be in the area of micro enterprise. It is also possible that some of the means WN will utilize to reach businesses (e.g., 800 numbers and Web sites) can also be used to match businesses and potential employees, but that is further down the road.

*Murder
8/6/86*

Because there is no reliable national way of counting those who move from welfare to work, WN will need to look to other indices of success. WN will have individual company success stories to tell, job producing partnerships of its members to report, and the equivalent of Baldrige awards to announce; once WN sees positive patterns emerging from its work and study, it will publicize them, help replicate them to the extent resources permit and transmit them to appropriate government executives. WN may also report on obstacles it uncovers to welfare reform from the perspective of the private sector, perhaps in a manner similar to that of the Small Business Conference of your first term.

3. Activities of the Organization.

There are three broad categories of activities within which WN will work (subject always to avoiding duplication with the work of other organizations):

(a) Education

- (1) business outreach -- WN will become a comprehensive source of information to businesses in finding potential employees and uncovering what public and private resources are available;
- (2) training -- WN will coordinate the use of existing company resources to aid in training, including the training universities of 110 companies; WN may create a human resources speakers bureau (although National Alliance for Business and National Governors Association are looking at this as well);
- (3) recommendations to government (federal, state and local).

(b) Hiring

- (1) pledges -- businesses, some with and some without experience hiring and retraining those formerly on public assistance, commit to hire or apprentice workers;
- (2) consortium -- new members join an ever expanding group of WN businesses that would hire workers who had received training, apprenticeships or entry level positions at other member businesses;
- (3) awards -- WN will bestow recognition on selected participating companies.

(c) Grants -- possible recipients/activities include:

- (1) micro enterprises (but this may properly be the realm of government and foundations);
- (2) studies of successful programs; and
- ✓ (3) large scale public works projects (e.g., rehabilitating a train station, creating a public park, etc).

4. Action Plan

WN contemplates three stages over the next year, in each of which there are logistical, functional and communications tasks to fulfill:

- (a) creation and clearinghouse (months 1 - 3) -- WN announces its plans, its 800 number and its Web site; becomes a source of information for businesses seeking the names of like-minded businesses or useful

resources in their geographic area or their industrial sector;

(b) program initiation (months 4 -6) -- WN announces its first 1000 members; announces its consortium plan (see above); makes first grants to study model programs ;

(c) in-depth programs (months 6 - 12) -- membership grows to 5000; WN reports on number of new jobs its members have created, especially through its consortium (unless too modest at this stage); announces PSA campaign to combat stigmatization of hiring workers from welfare; announces intensive project in demonstration city; issues its first advisory report to government; announces first annual employer award recipients.

5. Presidential Engagement

The mission of WN will be enhanced by Presidential engagement from the beginning. Possible activities include, but are not limited to the following:

- (a) publicity around the launch;
- (b) events in different geographic areas and different industries with business leaders who have joined WN by “taking the pledge” and/or have actually hired and retained former welfare recipients;
- (c) publicity around the first (and perhaps subsequent) awards to model employers.

6. Conclusion

Overall, the mission, functions and indices of success of WN will need greater refinement over the next few weeks. The basic judgment, however, is to focus welfare to work activities on what businesses themselves can do. With skill and discipline, we can carve out a role in this undertaking that will permit the private sector to translate good intentions into meaningful results.

File -
wF - Clair's choice

OFFICE OF MANAGEMENT AND BUDGET

**Legislative Reference Division
Labor-Welfare-Personnel Branch**

Telecopier Transmittal Sheet



SPECIAL

FROM: Melinda Haskins

395-3923

DATE: 3/15/97

TIME: 10:45 a.m.

Pages sent (including transmittal sheet): 5

COMMENTS:

FYI

Here is an advance copy of the Justice letter to OMB expressing its views on the Congressional draft bill making technical amendments to the welfare reform law.

- TO:** Kenneth Apple
 Elena Kagan
 Diana Ferkina
 Cynthia Rice
 Cynthia Smith

cc: White, Fontenot, Farkas, Smalligan

PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Franklin D. Raines
Director
Office of Management and Budget
Washington, DC 20503

DRAFT

Dear Mr. Raines:

This responds to your request for the views of the Department of Justice on a draft bill making technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

As a general matter, we are concerned that this draft legislation does not include all of the provisions contained in the Administration's draft PRWORA technical corrections bill, which was transmitted to Congress on December 16, 1996. We are particularly concerned about the omission from the draft bill of our proposed technical amendment regarding the charitable choice provisions of section 104 of the PRWORA. We strongly urge the incorporation of the section 104 amendments we recommended last November in any technical amendments to the PRWORA. The Establishment Clause of the Constitution prohibits states from funding pervasively sectarian organizations or religious activities. Congress' failure to clarify certain provisions in section 104 that might be read as inconsistent with this constitutionally compelled preclusion creates a serious risk that the provision will be implemented in an unconstitutional manner.

Additionally, although Senator Steven's office has raised concerns about this issue, a technical amendment to the definition of "Indian tribes in Alaska" remains necessary to conform to the recognized definition of "Indian tribe" in the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450b. The current variant definition of Indian Tribes in Alaska in section 419(4)(B) of the Social Security Act, by including entities that are not Indian tribes and excluding existing federally recognized tribes, falls outside the line of authority that recognizes the special political relationship between the U.S. government and Indian tribes and conflicts with the principle of government-to-government relations with Indian

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tribes. As a result, this definition raises potential litigation and policy concerns. The amended definition, as set forth in the Administration's draft bill, is intended to reduce the risk of litigation on this issue. In addition, application of this variant definition to the portion of Child Care Development Block Grant (CCDBG) funding transferred from the Temporary Assistance for Needy Families program under section 418 of the Social Security Act (as added by section 603(b) of the PRWORA) will make impossible, in the case of Alaska Natives, the operation of a single unified child care program under CCDBG.

We are also concerned about the scope of the amendments to section 403 of the draft bill. Although section 403(a) is responsive to our request that the benefit-administering agencies assume responsibility for determining the existence of a substantial connection between the battery or cruelty suffered by an alien and his or her need for a specific benefit, the draft bill fails to adopt paragraph two of the Administration's proposed amendment to section 431(c), which gives the Attorney General responsibility for promulgating uniform guidance for the affected agencies on the definitions of battery and extreme cruelty, and the standards for determining the existence of a substantial connection. Without this uniform guidance, aliens seeking benefits will be required to meet different standards when requesting benefits from different agencies, which might have the indirect effect of forcing a battered alien to remain in jeopardy longer as he or she struggles to meet disparate agency requirements. We respectfully request that the following amendment be included in the draft bill:

() BATTERED ALIEN DEFINED AS "QUALIFIED ALIEN" FOR LIMITED PURPOSES.--Section 431(c) of PRWORA, as added by sec. 501 of P.L. 104-208, is amended by adding at the end of paragraph (2) (B) the following:

"After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and as appropriate with the heads of other Federal agencies administering benefit programs, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion), for purposes of this subsection and section 421 (f), on --

" (i) the meaning of the terms 'battery' and 'extreme cruelty'; and;

" (ii) the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State or local program."

In addition to the technical amendments discussed above, we suggest four others. First, we believe one further correction to section 104 should be made to clarify constitutional restrictions under the Establishment Clause. Section 104(j) limits the use of funds provided under subsection 104(a)(1)(A) (which allows states

to contract with religiously-affiliated organizations) to non-sectarian activities. We would expand this limitation to reach also in-kind benefits provided by a state under subsection (a) (1) (B), which permits states to issue "certificates, vouchers, or other forms of disbursement" that are redeemable with religiously-affiliated organizations. Thus, we recommend that subsection (j) be amended, in toto, as follows:

"LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES. -- No funds provided directly to institutions or organizations to provide services and administer programs under subsection (a) (1) (A) or (a) (1) (B) shall be used or expended for any sectarian activity, including sectarian worship, instruction, or proselytization."

With this additional amendment to subsection (j), we thus reiterate the importance of including the other amendments to section 104 that we proposed earlier.

Second, we have a comment with respect to the technical amendment proposed in section 401 of the draft bill. Proposed section 401 makes changes to references within the PRWORA to section 243(h) of the Immigration and Nationality Act (INA), to take into account the modification and recodification of section 243(h) as section 241(b)(3) of the INA by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The technical amendment in section 401 assumes that the modification and recodification are effective upon enactment of IIRIRA; however, section 309 of IIRIRA provides that these changes are not effective until the first day of the first month beginning more than 180 days after enactment of IIRIRA (i.e., April 1, 1997). We therefore suggest the following amendment to section 401:

Sections 402(a)(2)(A)(iii), 402(b)(2)(A)(iii), 403(b)(1)(C), 412(b)(1)(C), and 431(b)(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 are each amended by striking "section 243(h) of such Act" each place it appears and inserting "section 243(h) of such Act (as in effect immediately before enactment ~~of the Immigration and Nationality Act~~ of section 307 of Public Law 104 208) or section 241(b)(3) of such Act (as amended by section 305(a) of Public Law 104-208)."

Finally, I have enclosed two additional PRWORA technical amendments. Both of these were included in this Department's package of technical amendments to IIRIRA, which was submitted to you for clearance earlier this year. Because both amendments involve sections of the IIRIRA that amend section 431 of the PRWORA, they properly belong in the PRWORA technical package, as well. (Please note that the commentary has been amended, however. As a consequence, these amendments should be

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substituted for the counterpart provisions currently in the IIRIRA package.)

Thank you for your consideration of this matter. Please do not hesitate to call upon us if we may be of further assistance.

Sincerely,
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Andrew Fois
Assistant Attorney General

Enclosure

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