

# Hillary's Dirty Little Secret About Health Care Reform

by Katherine Dalton

Ira C. Magaziner, the Rhode Island business consultant turned senior White House advisor to President Clinton, has been in the news again recently as the administration's Internet man—defending Mr. Clinton's view that the Web doesn't need government policing. But Mr. Magaziner is best known as the aide in charge of the effort to create a national health care system five years ago. It was Mr. Magaziner who assembled the hundreds of people who met behind closed doors to help President and Mrs. Clinton write a national health care bill in 1993 and 1994.

Today that failure is remembered mostly as an embarrassment for the Clintons and the source of a legal judgment on the status of the First Lady—that she is the functional equivalent of a federal employee. But to Kent Masterson Brown, the Danville, Kentucky, lawyer hired to sue the White House to open up the secret health care meetings, the most interesting aspect of the case was the role of some large foundations—the Robert Wood Johnson Foundation, in particular—which acted behind the scenes to shape the Clintons' reform efforts. Hundreds of millions of dollars have been spent and continue to be spent, he said, to bring national health care and a single-payer system to the United States—and not always through open debate in state or national legislatures, but in more roundabout and less visible ways.

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If Franklin Delano Roosevelt could marshal in the New Deal in a hundred days, surely the Clinton administration could revolutionize health care at the same forced march—or so Mr. Clinton thought, when in January 1993 he established the President's Task Force on National Health Care Reform. His stated goal was to introduce, pass, and implement national health care legislation by May of that year.

With Eleanor Roosevelt perhaps also in mind, Mr. Clinton named his wife to lead the 12-member task force, which was otherwise made up of cabinet members and other high-level federal employ-

ees. Putting his wife in an executive role was not the only controversial part of the President's plan. From the beginning, the Clintons decided that the work of drafting the proposed health care reform bill would be done in secret.

The press reported that this work was being done not just by Mrs. Clinton's small task force, whose members were known, but by an uncounted number of working groups, made up of hundreds of people the White House refused to name. The secrecy was necessary, said then-White House communications director George Stephanopoulos, because without it these people "would become subject to lobbying, to enormous pressure, and would not be able to do the work they have to do in a short period of time."

On February 28, a doctors' group and two public policy organizations filed a lawsuit in U.S. District Court in Washington to open these meetings to the public. On behalf of the Association of American Physicians and Surgeons of Tucson (AAPS), the National Legal and Policy Center of D.C., and the American Council for Health Care Reform, also of D.C., a team led by Kent Masterson Brown asked that both the task force meetings and working group meetings be made public under the Federal Advisory Committee Act of 1972 (FACA) and related statutes. Under FACA, a committee's meetings must be open to the public if they meet two criteria: people who are not federal employees sit on the committee, and the committee's purpose is to make recommendations to the President or a principal secretary. Mr. Brown's argument was that both criteria were met: that the President had expressly formed the task force and working groups to make a recommendation, and that Mrs. Clinton, who became First Lady through marriage, was not a full-time officer or employee of the government.

During the first round of the case, argued on March 5, 1993, before Judge Royce Lamberth, the Justice Department maintained Mrs. Clinton was the equivalent of a federal employee. Furthermore, Ira Magaziner swore an affidavit that all of the many unnamed people participating in the working groups were federal employees. This was important, because if they were government employees, then the meetings did not fall under FACA's jurisdiction and could stay closed.

Basing his decision on Mr. Magazin-

er's affidavit, Judge Lamberth agreed that the working group meetings could be private (since only "federal employees" were included). He also found that Mrs. Clinton was a private person and not a federal equivalent—and that's what made headlines. The decision did not stand long, however. The White House quickly appealed it, and a three-member appeals court neatly reversed Lamberth in June 1993. Mrs. Clinton, it said, was indeed a "de facto officer or employee" of the federal government, so the 12-member task force meetings could stay closed.

The working groups were another question, however. Press reports about hundreds of people drafting a bill in the dark cast doubt on Mr. Magaziner's affidavit, and so the three judges ordered that Mr. Brown and his clients should be able to use discovery to investigate whether these groups were indeed made up of only federal employees. It took another ruling for Mr. Brown to get his documents; in November 1993, Judge Lamberth found the White House in contempt and ordered it to produce the required papers.

As Mr. Brown explained in an interview, these papers showed that about 1500 people had been involved in these working groups. (The government says only 630 people were involved.) Each "cluster," said Mr. Brown, had "multiple working groups, all of which had names and numbers. These people would meet regularly in those working groups, and then Magaziner would set up 'tollgates' for all of them to come to Washington to meet as an entire interdepartmental working group.

"We were then able to identify from those records things about every one of those people. We found of the 1500, well over half were private people, not federal employees at all, either full-time or special government employees—they received no pay, nothing. They may have received some travel but we couldn't tell because we weren't given enough records. We were never able to discern how their travel was paid. Some had reimbursement forms but most we got nothing on. We got very few conflict of interest forms. The ones we did get, most of them appeared to be back-dated, most were incomplete, [filled out] probably [within] a month or two of the request; dates were whited out, they were phony."

Though the working groups had dis-

banded in May 1993, the lawsuit moved forward. Believing they had evidence that Mr. Magaziner's affidavit was false, Mr. Brown and his clients prepared a motion for summary judgment in March 1994. At that hearing, Judge Lamberth granted neither side's motion but instead set the case for trial in September 1994. Mr. Brown demanded certain documents he hadn't yet received, and stated plans to call both Mrs. Clinton and Mr. Magaziner to the witness stand.

Perhaps this had an effect on the White House, because by August the two sides were discussing a settlement. For 13 days they worked on an agreement, and then Mr. Brown's clients decided they would not settle. Consequently, he withdrew as attorney on the case. (The doctors' group AAPS pursued—unsuccessfully—a perjury charge against Mr. Magaziner. Then-U.S. Attorney for D.C. Eric Holder cleared him in 1995.)

The day he withdrew, Mr. Brown said, the White House released to the National Archives millions of documents related to the task force—effectively making the case moot. In late September, Senate Majority Leader George Mitchell of Maine announced that Congress would abandon health care legislation for the rest of the year—and the Clintons' bill was dead.

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Health care reform, however, remains an issue—partly due to the influence of certain not-for-profit foundations. In researching the hundreds of individuals who were members of Mrs. Clinton's working groups, Mr. Brown discovered something peculiar: most of these people had a strong tie to one of three foundations. "The vast bulk of them were closely tied either as program directors, officials, grantees or contractors to the Robert Wood Johnson Foundation of Princeton, New Jersey, or to the Pew Charitable Trust in Philadelphia, or the Henry J. Kaiser Family Foundation of California. The latter two were secondary to Robert Wood Johnson," he said. This foundation was formed in 1972 with \$1 billion worth of Johnson & Johnson stock left by the company's former chairman and CEO. An independent Republican who hated bureaucracy and advocated a higher minimum wage, Gen. Johnson left a will creating what was from the start one of the largest foundations in the country.

The Robert Wood Johnson Founda-

tion publicly supported the Clinton task force in a few ways, most notably by funding a June 21, 1994, two-hour health care debate special on NBC, which featured Mrs. Clinton. (The foundation spent \$1.5 million on the broadcast time, and another million to promote and advertise the special.) Its less-public support was uncovered by lawyer Genevieve Young, who found the connections between the individuals in the working groups and the foundation by checking through annual reports and other records. For example, listed among the working group members were several congressional fellows, who sat on the staff of senators Kennedy, Bumpers, Bradley, and Rockefeller. Oddly, however, Mr. Brown and his team couldn't find these people on the federal payroll.

Ms. Young found them in foundation records instead. Going through the Robert Wood Johnson files, she came across a brochure for the foundation's Health Policy Fellowships. In this program, the foundation (working through a sponsoring university) pays for an individual to sit on the staff of a legislator or member of the executive branch and assist in the development of policy. For that, Johnson pays a stipend of up to \$50,000 a year, plus moving expenses and fringe benefits. The program continues today.

"Now began the search for all these other names, where they come from, where they have a relationship," Mr. Brown said. "It was totally clear that of the hundreds in the working groups, half were private individuals, and that they had connections with [the Johnson] foundation either as program directors, officials, or by serving on boards of agencies that the foundation creates such as Alpha Center for Health Planning in Washington.

"Others were contractors. We found huge numbers of people from grantee institutions, universities that have programs underwritten by the foundation. Judith Feder, one of the 12-member task force [and who had headed Clinton's health care transition team], was a grant investigator for the Robert Wood Johnson Foundation and in fact was serving in that capacity at the time she was in the White House. Even Hillary Clinton—we found out she was a program director for a rural health initiative for the foundation in the 1980's."

For other clients Mr. Brown has stud-

ied the Johnson Foundation's involvement in state health reform, both in Kentucky, which passed health care reform legislation in 1994, and in Pennsylvania. Mr. Brown was surprised that states would take grant money tied to major policy changes. "Health reform in Kentucky got a \$399,000 grant from Robert Wood Johnson. That paid \$40,000 for one health policy board member's salary. It paid \$40,000 to the salary of the executive director. It paid the salaries or portions of salaries of six policy analysts on the health board, and there was \$50,000 left over to pay contractors. The foundation reserved to itself the right to determine employment of everyone on the health policy board. They were selected after their résumés were run by the foundation for its approval. These are state employees. Doesn't that bother somebody?"

Mr. Brown was hired by the State Legislature in Pennsylvania because, he says, "their Medicaid budget was going out of control. We found there what the foundation tried to do is go through the public schools to get school clinics, turn them into health resource centers, and then try to get all the children in the schools to have their services rendered and paid for by Medicaid—whether they were eligible for Medicaid or not. Governor Robert P. Casey, we found, had written to every school district superintendent saying 'Look, if you go along with this we can get you \$4,000 per child per year in reimbursement,' and these people are biting on this thinking it's money for them—not counting the fact that it's money out of the state treasury as well."

The Robert Wood Johnson Foundation has the influence it does because it is (in its own words) "one of the world's largest private philanthropies," with assets of \$5.6 billion. In 1996, the foundation spent \$267 million in grants and contracts, and it expects to be giving away \$360 to \$400 million annually by 2000. Those of us who assume our states operate on tax money alone should note that Robert Wood Johnson made around 35 grants to various state and local governments in 1996.

"This case is remarkable in what it showed me is happening in this country," Mr. Brown said. "I used to think, where does the government come up with these crazy ideas—statutes or regs or whatever? And I know now. It's something that's well-financed, plenty of peo-

ple have earned a lot of money contracting to develop this thing, and then through that same money source they run it through the government. And when you have that kind of resource behind you"—\$5.6 billion—"you can buy your way into a lot of places."

*Katherine Dalton writes from Henry County, Kentucky. This article is based on a 1997 interview with Kent Masterson Brown.*

## GUNS

### Distaff Defense

by Heather E. Barry

The Second Amendment of the Constitution reads "a well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed." This amendment meant very little to me growing up in a small town on Long Island. I thought the right to bear arms meant that people in the "old-

en days" had the right to hunt for food to feed their families. Then three years ago, while attending Pepperdine University, I heard a professor, Roger McGrath, speak about the Second Amendment in a very different way. After class, I told Dr. McGrath that I was curious about how he came to his understanding of the Second Amendment. Delighted that he inspired one of his students, he provided me with a brief bibliography of books and articles and sent me to find out for myself why the Second Amendment is an essential part of the Bill of Rights.

After extensive reading, I soon realized that the Second Amendment is not an antiquated right pertaining solely to hunting on the frontier. The first hard lesson I learned made it clear that the Bill of Rights does not give people rights. The first ten amendments protect the rights that the people already have—their inalienable rights—from infringement by the federal government. The Second Amendment states only that the government cannot violate the right to keep and bear arms. For the Founding Fathers the principal purpose of the Second Amendment was to guard against the development of tyrannical government. Additionally, the right to bear arms is also needed for personal protection against criminal activity.

I am a single 23-year-old graduate student, and the right to own a firearm is essential for my self-defense. While growing up, I always had my father at home to protect me—and I felt safe. However, when I went away to college, I soon realized that if I did not want to be easy prey for some mugger or rapist, I had to learn to protect myself. Although I am an athlete and quite physically fit, I am not capable of overpowering most males. Having run track, I used to cling to the naive belief that I could outrun an attacker. However, losing a few races against several of my male friends who were not regular runners enlightened me. Men and women are different: the average female cannot outrun the average male.

Once I decided that owning a gun was the only way to protect myself effectively, I realized that I knew nothing about guns, let alone how to shoot them. Moreover, I was afraid of them. Then, I heard about a woman, Paxton Quigley, who taught self-defense and gun-safety classes to women. I immediately signed up and attended. I found women at these classes who had a similar fear of guns but who also knew the importance

of self-protection. I soon became aware that a gun is a useful but dangerous tool that should be respected but not feared.

After I realized the importance of the Second Amendment, I began discussing my findings with classmates and professors. Their responses ranged from ignorance about the Second Amendment to thinking that I was part of some militia group. Not many of them allowed me to explain my position.

Several of my peers said I was wrong to believe that I needed to protect myself with a gun because the police would protect me. Unfortunately, the police cannot be at every street corner, parking garage, and house to provide protection for every individual. Even if the police are called in an emergency, it usually takes 15 to 20 minutes for them to arrive at the scene, which is long enough for the attacker to commit his crime and take off.

A few people suggested that I use "less offensive" weapons, such as a knife, pepper spray, or even karate. However, these weapons are often more dangerous to the victim. A knife is a weapon that requires close contact, and this creates the potential for a bigger and stronger attacker to take the knife away and to use it on his victim. Pepper spray is also a close-contact weapon that often only aggravates the attacker and makes him more vicious. Karate is the ultimate close-contact weapon and, like all martial arts, requires years of hard training. In the end, none of these weapons is as effective as a gun.

For an average female like me, a gun provides the best defense. A gun is an equalizer between large and small, strong and weak, men and women. I have an inalienable right to self-defense, and without this right, I cannot consider myself a free person. Even though I have never been attacked and hope that I never am, I will be prepared. I have often been told that chances are, even if I have a gun when attacked, I will not be able to use it or that the gun may be used against me. However, studies indicate that just the opposite is the case, that those who are armed and fight back suffer less severe injuries or are less likely to be killed than those who do not defend themselves. I have made my choice. I shall not weakly submit.

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## LIBERAL ARTS

### MAYBE YOU'RE ON TO SOMETHING, TED

"I really believe that there are huge forces arrayed against us. The forces of ignorance, lack of education and prejudice and hatred and fear. The forces of darkness in general. . . .

"How can we not win? We're smarter than they are. . . .

"I'll put my money on the smart people against the dummies. If the smarts can't beat the dumbs, we're really not that smart, are we?"

—Ted Turner, accepting the Leadership Award from Zero Population Growth, quoted in the Population Research Institute Review (January/February 1998)