

NLWJC - KAGAN

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ARMS - BOX 001 - FOLDER -006

[07/01/1996 - 07/28/1996]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	David Fein to Jack Quinn et al. Subject: Contact Info. (2 pages)	07/12/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Automated Records Management Group
 OPD ([Kagan])
 OA/Box Number: 250000

FOLDER TITLE:

[07/01/1996 - 07/28/1996]

2009-1006-F

wr81

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Lyndell Hogan (HOGAN_L) (OPD)

CREATION DATE/TIME: 1-JUL-1996 17:00:59.13

SUBJECT: Appropriations bills affecting women--text

TO: George Stephanopoulos (STEPHANOPO_G) Autoforward to: Laura Capp
READ: 1-JUL-1996 18:14:03.50

TO: Carol H. Rasco (RASCO_C) (WHO)
READ: 3-JUL-1996 13:39:46.54

TO: Nancy-Ann E. Min (MIN_N) (OMB)
READ: 1-JUL-1996 19:06:54.58

TO: Marilyn Yager (YAGER_M) (WHO)
READ: 2-JUL-1996 08:57:08.92

TO: Elizabeth E. Drye (DRYE_E) (OPD)
READ: 3-JUL-1996 10:31:14.94

TO: John P. Hart (HART_J) (WHO)
READ: 2-JUL-1996 11:20:43.55

TO: Katharine M. Button (BUTTON_K) (WHO)
READ: 8-JUL-1996 10:40:07.46

TO: Elena Kagan (KAGAN_E) (WHO)
READ: 2-JUL-1996 09:01:03.26

TO: Karen L. Hancox (HANCOX_K) (WHO)
READ: 1-JUL-1996 17:24:02.23

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ: 1-JUL-1996 18:28:39.86

TO: Todd Stern (STERN_T) (WHO)
READ: 6-JUL-1996 13:39:28.13

TO: Betsy Myers (MYERS_B) (WHO)
READ: 1-JUL-1996 17:30:16.86

TO: Peter Jacoby (JACOBY_P) (WHO)
READ: 1-JUL-1996 17:18:02.51

TO: Martha Foley (FOLEY_M) (WHO)
READ: 2-JUL-1996 07:53:57.37

TEXT:

PRINTER FONT 14_POINT_COURIER
M E M O R A N D U M

PRINTER FONT 12_POINT_COURIER
To: Those Interested
From: Lyn Hogan
Domestic Policy Council

Date: July 1, 1996

PRINTER FONT 14_POINT_COURIER
Status of Appropriations and Other Legislation
Affecting Women
PRINTER FONT 12_POINT_COURIER
FY '97 Labor, Health and Human Services Appropriations

Human Embryo Research

? On June 25, 1996, during Committee mark

-up of the HHS/Labor

Appropriations bill, Reps. Dickey (R

-AZ) and Wicker (R

-MS)

offered an amendment to reinstate the ban on human embryo
research. The amendment passed 25

-20.

? Rep. Lowey (D

-NY) is expected to offer on the floor an
amendment to strike the ban and codify the NIH guidelines
which allowed research on extra embryos that were created
for in vitro fertilization, but did not allow the creation
of embryos solely for research. Rep. Lowey successfully
offered this amendment in the subcommittee mark

-up.

Abortion/Family Planning

The week of July 8 Rep. Istook (R

-OK) is expected to offer on the
floor the following amendments to the Labor/HHS appropriations
bill:

? An amendment allowing states to deny Medicaid coverage for
abortions to low

-income women who are victims of rape or
incest.

? An amendment that would prohibit Title X funds from being
used to provide services to teenagers without parental
consent. Those services include providing contraceptives as
well as testing for sexually transmitted diseases. States
would be allowed to opt out of the federal mandate but, in
doing so, would be required to enact new laws allowing
minors to consent to sensitive health services. Currently,
49 states have allows that allow minors to consent for
screening and treatment of sexually transmitted diseases and
23 states have laws allowing minors to consent for
contraceptive services.

FY '97 Treasury, Postal and General Government Operations
Appropriations bill

Abortion

? The week of July 8 Rep. Hoyer (D

□

-MD) is expected to offer on the floor an amendment to strike the restrictive language written into law in last years' appropriations bill, that prevents federal employees from selecting a health care plan that provides abortion coverage. Rep. Hoyer offered this amendment during committee debate. However, it failed

16

□

-22.

FY '97 Foreign Operations Appropriations bill
Abortion/Family Planning

During subcommittee consideration of this appropriations bill, Sen. Leahy (D

□

-VT) offered an amendment striking the Mexico City Policy language (Mexico City language denies all funding for overseas family planning organizations that perform abortions or speak out about reproductive choice, even with private money, a policy Pres. Clinton reversed when he came into office) and striking funding cuts to population assistance programs attached by the House. The Leahy amendment also restores a separate account for population assistance within the development assistance programs and increases population assistance to \$410 million. The Leahy amendment passed 8

□

-5. Senate floor action is expected after the July 4 recess.

Welfare/Medicaid Legislation

On June 26 in the Senate Finance Committee, Sen. Chafee offered an amendment to strike from the welfare/Medicaid legislation language that permits states to deny coverage for abortion services except in the cases of life, rape or incest. The Chafee amendment failed 10

□

-10.

FDA and the Morning After Pill

After holding a hearing on Friday June 28, the FDA decided to publish in the Federal Register a notice that says ordinary oral contraceptives can be safely and effectively used as "morning after pills." However, because of concerns over liability litigation and anti

□

-abortion protests, no manufacturer has filed an application to market the pills specifically as "morning after pills." Without an application, the FDA cannot formally approve the new use. Instead, the FDA will use the Federal Register announcement to inform people of this use of birth control pills,

and will continue to hope a manufacturer applies.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Anna M. Briatico (BRIATICO_A) (OMB)

CREATION DATE/TIME: 1-JUL-1996 17:16:54.42

SUBJECT: Reminder - Comments due on HUD draft testimony on Native

TO: David J. Haun (HAUN_D) (OMB)
READ: 1-JUL-1996 17:17:31.51

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)
READ: 1-JUL-1996 18:15:18.18

TO: Molly Brostrom (BROSTROM_M) (WHO)
READ: 8-JUL-1996 10:54:56.92

TO: Elena Kagan (KAGAN_E) (WHO)
READ: 2-JUL-1996 09:01:14.97

CC: Janet R. Forsgren (FORSGREN_J) (OMB)
READ: 1-JUL-1996 17:55:57.12

CC: Francis S. Redburn (REDBURN_F) (OMB)
READ: 1-JUL-1996 17:22:58.67

CC: Moon T. Tran (TRAN_M) (OMB)
READ: 1-JUL-1996 17:17:27.54

TEXT:
Hawaiians. Please forward your comments on LRM 4912 by COB today.
Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Anna M. Briatico (BRIATICO_A) (OMB)

CREATION DATE/TIME: 2-JUL-1996 14:45:15.14

SUBJECT: FYI - Dept. of Labor reaction to Justice Letter on H.R. 1227

TO: Mary I. Cassell (CASSELL_M) (OMB)
READ: 2-JUL-1996 15:23:12.05

TO: Barry White (WHITE_B) (OMB)
READ: 2-JUL-1996 18:05:56.47

TO: Larry R. Matlack (MATLACK_L) (OMB)
READ: 2-JUL-1996 16:07:20.08

TO: Janet L. Himler (HIMLER_J) (OMB)
READ: 2-JUL-1996 14:45:32.80

TO: Robert G. Damus (DAMUS_R) (OMB)
READ: 2-JUL-1996 14:57:18.19

TO: Jonathan Orszag (ORSZAG_J) (OPD)
READ: 2-JUL-1996 14:46:48.57

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)
READ: 2-JUL-1996 15:20:33.27

TO: Tracey E. Thornton (THORNTON_T) (WHO)
READ: 2-JUL-1996 15:09:44.66

TO: Jill M. Blickstein (BLICKSTEIN_J) (OMB)
READ: 2-JUL-1996 14:51:41.94

TO: Elena Kagan (KAGAN_E) (WHO)
READ: 2-JUL-1996 14:59:39.50

TO: Elisa M. Millsap (MILLSAP_E) (WHO)
READ: 2-JUL-1996 14:53:11.84

CC: Janet R. Forsgren (FORSGREN_J) (OMB)
READ: 2-JUL-1996 14:56:08.10

CC: James C. Murr (MURR_J) (OMB)
READ: 2-JUL-1996 14:46:53.61

TEXT:

FYI - The Department of Labor opposes clearing the Justice letter on H.R. 1227 (Portal-to-Portal Act). Labor believes that we should not try to "fix" a bill that the Administration strongly opposes.

Reminder -- please send your comments (and reactions to Labor's views) on LRM 4923 to me by 4 p.m. today. Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jennifer M. O'Connor (OCONNOR_J) (WHO)

CREATION DATE/TIME: 3-JUL-1996 12:03:08.86

SUBJECT: TEAM Act memo

TO: John Hilley (HILLEY_J) Autoforward to: Elisa M. Mills
READ: 3-JUL-1996 12:06:06.21

TO: John C. Angell (ANGELL_J) (WHO)
READ: 3-JUL-1996 16:13:59.47

TO: Gene B. Sperling (SPERLING_G) Autoforward to: Daniel Taber
READ: 3-JUL-1996 13:08:34.64

TO: Tracey E. Thornton (THORNTON_T) (WHO)
READ: 3-JUL-1996 12:03:55.72

TO: Elena Kagan (KAGAN_E) (WHO)
READ: 3-JUL-1996 12:25:42.69

CC: Elisa M. Millsap (MILLSAP_E) (WHO)
READ: 3-JUL-1996 12:06:06.21

CC: John O. Sutton (SUTTON_J) (WHO)
READ: 3-JUL-1996 12:04:43.15

CC: Jason S. Goldberg (GOLDBERG_JS) (OPD)
READ: 3-JUL-1996 12:03:56.67

TEXT:

Here is a new version of the TEAM Act memo, which now incorporates John Hilley's comments too. At this point it now has comments from Hilley, Angell and Sperling. Please let me know by 5pm if any more changes are needed. At that point, I will hand it off to Harold.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 3-JUL-1996 12:01:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Jennifer M. O'Connor

TEXT:

WPCa

2IBETZE#|P)

Y-#Xw PE37XP#HP LaserJet 4 Plus/4M PlusHL4PLPLU.WRSx

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Xy-

Xb-XxThe President strongly supports labormanagement cooperation. (#

XK-XxThe President has been able to visit with and applaud many companies engaged in labormanagement partnerships because they are currently legal. The law currently allows all labormanagement partnerships except the very few we think should appropriately be illegal those where the labormanagement committee is infringing on the collective bargaining process and on employees' rights to independent representation. (#

X-XxThe TEAM Act is the wrong approach because it doesn't clarify this law rather it undermines the sixty year tradition of collective bargaining in this country and undermines employees' right to democratically elect their own representatives. (#

Xe-)xEndorse the Democratic alternative.

XN-

X7-)XxInvoke some of the Dunlop Commission recommendations as evidence that a variety of changes to current labor law might need some review. (#

X -

X-)xEndorse principles for an alternative bill, without endorsing an alternative bill.

X-"0+0+0*"The TEAM Act is scheduled to come up in the Senate for debate on July 9 and a vote on July 10. Senators Daschle and Kennedy have developed a strategy in which Democrats vote for an alternative to the TEAM Act and then vote against the TEAM Act, giving the President a margin to sustain a veto of the TEAM Act. The White House, Department of Labor, congressional staffs and the AFLCIO have worked together on the alternative. Daschle's and Kennedy's staffs believe most moderate Democrats are supportive of this alternative and the strategy. The AFLCIO is not publicly supportive of the alternative bill, and some affiliates, unions are actively lobbying Senators to vote against it because they believe any change to current law could make it harder for them to organize new workplaces. Below is a description of the alternative bill and options for a public strategy for the President on this issue.

X

-The Alternative Bill

The alternative bill aims to codify current case law and thus to "clarify" which labor

X

-management cooperation arrangements are legal. It states that employers may :

Xx1) Engage in discussions with employees as a group or individually to discuss any issue of mutual concern; (#

Xx2) Assign employees to work teams and discuss issues related to the work responsibilities of the team; these teams may discuss work conditions occasionally; (#

Xx3) Set up quality circles and productivity teams to discuss such issues as improving productivity and quality of products, methods of work organization, sales; these teams may discuss work conditions occasionally; (#

Xx4) Set up independent labormanagement committees to discuss work conditions, but not to negotiate collective bargaining agreements; the employees must be able to select their own representatives to the committee through a democratic voting process, and employees must be able to choose whether or not to participate in the committees. (#

The alternative also provides that an employer may not establish a work unit or committee while a petition for a union election is pending before the NLRB. If, after the establishment of a labormanagement committee, a union seeks to organize the employees, the union will be given the same rights of access to the employees as the labormanagement committee. The alternative's rules would apply only to nonunionized workplaces.

This alternative is quite different from the TEAM Act. The TEAM Act permits employers to establish and control any type of employee organization that addresses any matter, including working conditions, and permits the employer to select the employee representatives for the committees and to discipline employees who do not participate in or refuse to participate in the committees. It would apply even in unionized workplaces. It thus goes beyond clarifying the current law and instead changes it to permit company domination of employee organizations, X(-even in workplaces in which the employees have elected a union.

X(-"0*0*0*'"
X-Public Strategy for the President

X-
The President and Vice President have stated on several occasions since February, 1995, that the President would veto the TEAM Act, attempts to "weaken" 8(a)(2) of the NLRA and attempts to "create company dominated unions." The Statement of Administration Policy for the TEAM Act in the House said that Secretary Reich would recommend a veto. Thus there is no question in the minds of Democratic Senators and various constituents that the President would veto the TEAM Act. What hasn't been clarified, however, is whether the President would endorse any changes whatsoever in 8(a)(2).

A threshold issue is what degree of prominence this issue will be given. On the one hand, there may never be any push for the President to endorse changes to current law. Democratic Senators are currently comfortable with the alternative bill strategy and are not asking for public presidential support for the alternative bill. The labor community does not want the President to endorse the alternative bill because they feel such support would provide momentum to attempt to change 8(a)(2) and upset the delicate balance they have achieved with the alternative bill legislative strategy. To endorse any changes to 8(a)(2) will likely seriously harm our relationship with this constituency. The TEAM Act coalition of Xb-businesses will not appreciate presidential support for an alternative because they want him to sign the TEAM Act and will be angry when he vetoes it, no matter what he says.

On the other hand, if this issue takes on a larger symbolic prominence in the public debate next week, we will be hard pressed to explain why the President is not supporting an X-alternative bill supported by 202 Democratic House Members.

Depending on the tenor of the public debate, there are four options for the President. All but the first will probably seriously damage our relationship with labor constituents.

X|-□1)XxContinue to express support for labor management cooperation without explicitly endorsing changes to current law. (#

XN-□
An Administration position would have the following components:

X -□The President strongly supports labormanagement cooperation.□ Increased participation by employees in decisionmaking is one of the key ingredients in the recipe for creating high performance workplaces. For American to be globally competitive in the 21st century, employees and management must work in partnership employees must recognize their stake in the company and employers must value their employees. Labormanagement cooperation can improve productivity, encourage innovation and increase employee satisfaction.

Xh\$-□The President has been able to visit with and applaud many companies engaged in labormanagement partnerships because they are currently legal.□ According to the legislative findings in the TEAM Act, there are more than 30,000 employee involvement plans up and running today. A recent study by the Labor Policy Association suggested that 96% of large employers have employee involvement programs. Under current law, employers who want to know about a particular working condition or idea for change can ask their "employees individually, in groups or in a committee. Employers can invite employee suggestions, ideas, comments and criticisms, share information with employees or brainstorm with the employees. Employers can set up quality circles or other teams to discuss how to improve quality, efficiency and productivity. They can set up troubleshooting committees to deal with workplace safety and other issues. Because all of these kinds of partnerships are legal, there are only an average of three companies per year who are ordered by the NLRB to disband committees which violate 8(a)(2).

[This compares to roughly 10,000 cases per year in which an employer is found by the NLRB to have unlawfully discharged an employee for supporting a union.]

The law currently allows all labormanagement partnerships except the very few we think should appropriately be illegal those where the labormanagement committee is

X -infringing on the collective bargaining process and on employees' rights to independent representation.

X-□□□The TEAM Act is the wrong approach.□ The only thing the TEAM Act changes about

X□-current law is it opens the door for the small number of illmotivated companies that want to

X
-keep their employees from electing their own representatives.

O <#C\ P6Q/P#□ □ This idea could be expanded upon by also arguing that if any

clarification to 8(a)(2) is needed, the NLRB is the appropriate body to clarify the law. We would argue that for 60 years, the NLRB has developed case law which has maintained a careful balance of employer and employee interests. There are several cases currently pending before the NLRB which concern employee involvement programs. We should allow the administrative agency charged with interpreting the NLRA to issue those decisions and issue any clarifications of 8(a)(2) it deems necessary. This argument would have to be crafted so it is not inconsistent with the premise that the current law is adequate. It undermines what has been a traditional principle in this nation since the 1930s that employees ought to be able to democratically elect representatives if they choose to. Allowing companies to prevent their employees from electing representatives is the opposite of the corporate responsibility principles championed by the President.

X4-

X-Pros

X-

X-XxMakes a strong case for employee involvement without upsetting the congressional strategy in the Senate.(#

X-Cons

X|-XxSome in the business community argue clarification is needed and this position does not address that concern.(#

X7-XxCould be viewed as giving in to labor constituents.(#

X -XxDoesn't provide an answer to why the President is not supporting a bill that at 202 Democrats voted for in the House.(#

X -" 0*0*0*"

X-2)xEndorse the Democratic alternative

X-

An Administration position would have the same components as option 1) above, with the addition of the following component:

X-If some people think clarification is needed, the Democrats in the Senate have the right

Xv-kind of approach.□ The Administration believes that labor management participation is legal and is flourishing. But we are sympathetic if some businesses feel the law is not clear enough for them. Senate Democrats have introduced a balanced bill that spells out clearly for employers what kinds of labor management partnerships are allowed under the current law. It also goes further allowing employers to establish committees that can talk to employees about their wages, benefits and other conditions of work but only if the employees are able to freely and democratically elect their representatives and only if there are protections so employers can't use these committees to prevent their employees from forming unions.

X

-Pros

Xy-XxEnables the President to point to a legislative proposal he supports instead of the TEAM Act. (#

X4-Cons

X-

X-XxBusinesses will not view support of the alternative as a positive step because of the provisions for democratic elections of labor management committees and the provision allowing union representatives to have the same access to the premises as labor management committee members. (#

X-XxLabor constituents will be furious. They believe there are scores of problems in the labor laws that need to be fixed (such as 10,000 cases each year where an employer is found guilty of illegally discharging an employee due to the employee's support of a union). Because only 3 employers a year are ordered to disband labor management committees, they see the 8(a)(2) issue as a tiny problem relevant only to the small number of employers who want to break a union or prevent its formation. In the scope of labor management problems, they would view a fix to this particular problem as a one-sided gift to business with no corresponding provision for labor. (#

X -XxWould likely upset the congressional strategy in the Senate by encouraging moderate Democrats to try to find a deal that the President could sign. This

would cause labor unions to lobby against the Democrats who would vote for the deal, and would split Democrats. Could result in a bill the President could sign, which would anger labor even more. (#

X:&-□3)XxInvoke some of the Dunlop Commission recommendations as evidence that a variety of changes to current labor law might need some review. (#

X□(-□
An Administration position would have the same components as option 1) above, with the "(0*0*0*'"
X-addition of the following component:□□

X-□Maybe this and some other aspects of labor law need to be reviewed.
MX

MX
□While the Administration believes the law allows employee participation, some businesses have□□ said it is unclear just what is allowed under current law. We're sympathetic because businesses should be encouraged to participate in these valuable committees. The Dunlop Commission suggested there might be ways to make this law clearer but it said that if the law against company unions were changed all by itself, without addressing other areas of labor law as well, that labor management cooperation would get worse, not better. If the TEAM Act were a balanced bill that addressed business' concerns about clarification, and employee concerns as well, then the Administration would be for it.

X
-Pros

X□-□□XxEnables the President to state that he supports the kinds of clarifying changes that businesses say they need without putting the Administration on the record in support of a particular bill. (#

Xb-XxNeutralizes a potential charge that the Administration is not willing to help struggling businesses with a simple fix. (#

X-Cons

X-XxCould upset the congressional balance in the Senate. At present, Democrats

are comfortable voting so that the alternative bill fails and the TEAM Act passes and is vetoed. A signal from the President that he would sign a bill if it were the right bill could generate an effort to shift that strategy. (#

X|-XxCould generate expectations that the Administration would introduce comprehensive labor law reform in the second term. (#

X7-XxDoesn't address the true concerns of the businesses that wrote to the President. The Dunlop Commission recommended that changes to 8(a)(2) be coupled with changes to other aspects of labor law that are pro-labor. In saying the administration will revisit the Dunlop Commission report, the administration would be saying pro-business reforms need to be coupled with pro-labor reforms. (#

X!-XxWill anger labor constituents. They did not like the Dunlop Commission's approach to 8(a)(2) because it recommended clarification. They believe that any change to 8(a)(2) could make it harder to organize new workplaces. (#

XQ%-XxOpens door to question of which legislative changes we would approve of. (#

X#'-XxDoesn't adequately answer question of why we can't change 8(a)(2) by itself and fix the other problems at a later date. (#
 "(0*0*0*'"
 X-4)xEndorse principles for an alternative bill, without endorsing an alternative bill.

X-
 An administration position would have the same components as option 1) above, with the addition of the following component:

X-If clarification is needed, then the Administration would be for reasonable clarifications.
 The administration believes that labor-management participation is legal and is flourishing. But we are sympathetic if some businesses feel the law is not clear enough for them. The Administration believes it is possible to clarify the law without upsetting the delicate balance between labor and management built up over the 60 year history of the NLRB. We know that work teams and quality circles and productivity teams are all legal under current cas

e law
 that can be spelled out so that small businesses that can't afford to hire in house counsel
 can easily see what kinds of activities are legal and which are not. Employers should be
 able to talk to their employees, as they do today, about virtually anything so long as they
 do not dominate a work committee that deals with them on working conditions. If employers
 want to discuss working conditions with employees, there is a simple answer employees
 ought to be able to democratically elect representatives who can discuss these matters with
 the employer. And there must be protections so employers can't use these committees to
 prevent their employees from forming unions.

XK-

X4-Pros

X-XxEnables the President to point to principles he supports instead of the TEAM Act. (#

X-Cons

X-

X-XxSame as 2) above. (#===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jennifer M. O'Connor (OCONNOR_J) (WHO)

CREATION DATE/TIME: 3-JUL-1996 21:27:25.72

SUBJECT: Final version

TO: John C. Angell (ANGELL_J) (WHO)
READ: 8-JUL-1996 17:20:52.92

TO: Gene B. Sperling (SPERLING_G) Autoforward to: Daniel Taber
READ: 5-JUL-1996 10:14:26.53

TO: John Hilley (HILLEY_J) Autoforward to: Elisa M. Mills
READ: 8-JUL-1996 08:00:43.49

TO: Elena Kagan (KAGAN_E) (WHO)
READ: 8-JUL-1996 08:33:26.87

CC: John O. Sutton (SUTTON_J) (WHO)
READ: 5-JUL-1996 08:57:16.14

CC: Elisa M. Millsap (MILLSAP_E) (WHO)
READ: 8-JUL-1996 08:00:43.49

CC: Jason S. Goldberg (GOLDBERG_JS) (OPD)
READ:NOT READ

TEXT:

Attached is the final version of the TEAM Act memo.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 3-JUL-1996 21:26:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Jennifer M. O'Connor

TEXT:

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: M. Jill Gibbons (GIBBONS_M) (OMB)

CREATION DATE/TIME:12-JUL-1996 09:23:32.75

SUBJECT: OGE letter on HR3452

TO: Nelson W. Cunningham (CUNNINGHAM_N) (OA)
READ:12-JUL-1996 09:37:10.57

TO: Kathleen M. Whalen (WHALEN_K) (WHO)
READ:12-JUL-1996 10:04:02.64

TO: Elena Kagan (KAGAN_E) (WHO)
READ:12-JUL-1996 12:54:27.09

TO: Peter Jacoby (JACOBY_P) (WHO)
READ:12-JUL-1996 10:15:42.99

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:12-JUL-1996 10:24:10.59

TO: Steven D. Aitken (AITKEN_S) (OMB)
READ:12-JUL-1996 09:23:42.13

TO: Raymond P. Kogut (KOGUT_R) (OMB)
READ:12-JUL-1996 13:33:34.12

TO: Douglas D. McCormick (MCCORMICK_D) (OMB)
READ:12-JUL-1996 09:41:35.38

TO: Thomas S. Lewis (LEWIS_TS) (OMB)
READ:12-JUL-1996 10:25:09.32

TO: Marcia D. Occomy (OCCOMY_M) (OMB)
READ:12-JUL-1996 11:20:04.49

TEXT:

This is a reminder to please have comments by 10:00 today on the OGE letter proposing amendments to H.R. 3452, the Presidential and Executive Office Accountability Act. The bill is scheduled for markup early next week and OGE would like to send the letter as soon as possible. Thanks

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	David Fein to Jack Quinn et al. Subject: Contact Info. (2 pages)	07/12/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management Group
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[07/01/1996 - 07/28/1996]

2009-1006-F

wr81

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Annette E. Johnson (JOHNSON_AE) (WHO)

CREATION DATE/TIME:12-JUL-1996 13:38:05.60

SUBJECT: 4 pm Meeting in 472 OEOB

TO: Michael Waldman (WALDMAN_M) (WHO)
READ:12-JUL-1996 14:04:56.01

TO: Kathleen M. Wallman (WALLMAN_KM) (WHO)
READ:12-JUL-1996 15:27:16.01

TO: James S. Rubin (RUBIN_J) (WHO)
READ:15-JUL-1996 09:07:19.89

TO: James Weber (WEBER_J) (WHO)
READ:12-JUL-1996 14:25:21.35

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:12-JUL-1996 13:39:40.98

TO: Elena Kagan (KAGAN_E) (WHO)
READ:12-JUL-1996 14:51:06.94

TO: M. Jill Gibbons (GIBBONS_M) (OMB)
READ:12-JUL-1996 13:50:18.94

TO: William Curry (CURRY_W) (WHO)
READ:13-JUL-1996 13:49:44.58

CC: Peter Jacoby (JACOBY_P) (WHO)
READ:NOT READ

TEXT:

There will be a 4 p.m. meeting with Peter Jacoby today, 7/12 in 472 Oeob regarding Campaign Finance Reform. Thank you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Ronald E. Jones (JONES_RE) (OMB)

CREATION DATE/TIME:15-JUL-1996 09:15:58.37

SUBJECT: SAP on HR 3166, Gov't Accountability Act

TO: Elena Kagan (KAGAN_E) (WHO)
READ:15-JUL-1996 11:21:04.82

TO: Stephen C. Warnath (WARNATH_S) (OPD)
READ:15-JUL-1996 12:11:57.80

TO: Dennis Burke (BURKE_D) (OPD)
READ:15-JUL-1996 09:31:30.17

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:NOT READ

TO: Alice E. Shuffield (SHUFFIELD_A) (OMB)
READ:15-JUL-1996 10:35:15.18

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)
READ:15-JUL-1996 13:28:16.26

TO: Peter Jacoby (JACOBY_P) (WHO)
READ:15-JUL-1996 10:38:12.77

TO: David J. Haun (HAUN_D) (OMB)
READ:15-JUL-1996 09:16:57.66

TO: John E. Thompson (THOMPSON_J) (OMB)
READ:22-JUL-1996 09:16:19.70

TO: Harry G. Meyers (MEYERS_H) (OMB)
READ:15-JUL-1996 10:52:10.92

TO: Mark J. Schwartz (SCHWARTZ_M) (OMB)
READ:15-JUL-1996 09:17:56.40

TO: Ellen J. Balis (BALIS_E) (OMB)
READ:15-JUL-1996 09:19:01.49

TEXT:

PRINTER FONT 12_POINT_ROMAN

Unless I hear otherwise by noon today, July 16, 1996, I will assume you have no objection to the proposed SAP on H.R. 3166, the Government Accountability Act, (LRM

-4991, dated 7/12), which expressed the Administration's support for House passage of the bill.

If you need another copy of the LRM, intend to comment but need more time, or have provided comments that I may have overlooked, please let me know by answering this fax/E

-mail.

Thanks,

Ron Jones

395

□

-3386

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Ronald E. Jones (JONES_RE) (OMB)

CREATION DATE/TIME:15-JUL-1996 10:26:16.95

SUBJECT: Correction re: Comments on HR 3166 SAP

TO: Elena Kagan (KAGAN_E) (WHO)
READ:15-JUL-1996 11:21:11.32

TO: Stephen C. Warnath (WARNATH_S) (OPD)
READ:15-JUL-1996 12:12:46.21

TO: Dennis Burke (BURKE_D) (OPD)
READ:18-JUL-1996 10:18:38.35

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:NOT READ

TO: Alice E. Shuffield (SHUFFIELD_A) (OMB)
READ:15-JUL-1996 10:36:40.67

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)
READ:15-JUL-1996 13:52:49.78

TO: Peter Jacoby (JACOBY_P) (WHO)
READ:15-JUL-1996 10:46:00.22

TO: David J. Haun (HAUN_D) (OMB)
READ:15-JUL-1996 10:42:27.49

TO: Harry G. Meyers (MEYERS_H) (OMB)
READ:15-JUL-1996 11:01:56.81

TO: Mark J. Schwartz (SCHWARTZ_M) (OMB)
READ:15-JUL-1996 10:28:44.54

TO: Ellen J. Balis (BALIS_E) (OMB)
READ:15-JUL-1996 10:41:28.33

TEXT:

PRINTER FONT 12_POINT_ROMAN

Unless I hear otherwise by noon today, July 15, 1996, [NOT THE 16TH AS ORIGINALLY STATED] I will assume you have no objection to the proposed SAP on H.R. 3166, the Government Accountability Act,

(LRM

-4991, dated 7/12), which expressed the Administration's support for House passage of the bill.

If you need another copy of the LRM, intend to comment but need more time, or have provided comments that I may have overlooked, please let me know by answering this fax/E

-mail.

Thanks,

Ron Jones
395

□

-3386

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Peter Jacoby (JACOBY_P) (WHO)

CREATION DATE/TIME:15-JUL-1996 17:52:03.34

SUBJECT: Smith-Meehan CFR Letter

TO: Elena Kagan (KAGAN_E) (WHO)
READ:15-JUL-1996 18:41:20.56

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:16-JUL-1996 09:13:20.24

TO: Michael Waldman (WALDMAN_M) (WHO)
READ:15-JUL-1996 18:41:49.39

TO: James Weber (WEBER_J) (WHO)
READ:15-JUL-1996 18:11:40.66

TO: M. Jill Gibbons (GIBBONS_M) (OMB)
READ:15-JUL-1996 17:52:35.40

TEXT:

July 18, 1996

Dear Speaker Gingrich:

Just over a year ago, I shook hands with you and publicly affirmed my commitment to reforming the nation's campaign finance laws. Now I call on the House of Representatives to send me legislation that will address the American public's desire for real change in our political process, and in so doing renew our democracy and strengthen our country. I support the comprehensive, bipartisan legislation crafted by Congresswoman Smith, Congressman Meehan and Congressman Shays and I strongly believe that the House should be able to consider this legislation when it addresses campaign finance reform later this week. In particular, I approve of several reforms such as placing limits on spending, curbing PAC and lobbyist influence, discounting the cost of broadcast time, and reforming the soft money system.

Organized interests have too much power in the halls of government. Oftentimes, representatives from such interest groups operate without accountability and are granted special privileges that ordinary Americans don't even know exist. In addition, elections that represent an opportunity in which ordinary voters should have the loudest voice have become so expensive that these voices are sometimes drowned out by big money.

Let us capitalize on the progress made in the last three years. In 1993, we repealed the tax

loophole that allowed lobbyists to deduct the cost of their activities. In 1994, I signed a law that applies to Congress the same laws it imposes on the general public. Last year, Congress answered my call to stop taking gifts, meals, and trips from lobbyists, and I signed the Lobbying Disclosure Act into law. We now have an opportunity to finish the job by addressing campaign finance reform.

The Honorable Newt Gingrich

Page Two

As we work to reform campaign finance, we must do everything in our power to ensure that we open, not limit, the political process. Our goal is to take the reins of our democracy away from big special interests, from big money, and to return them to the hands of those who deserve them -- ordinary Americans. Real reform is now achievable. I urge the House to pass sensible, comprehensive bipartisan campaign finance reform legislation and give the American people something we can all be proud of.

Sincerely,

The Honorable Newt Gingrich
The Speaker
United States House of Representatives
Washington, D.C. 20515

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jennifer M. O'Connor (OCONNOR_J) (WHO)

CREATION DATE/TIME:15-JUL-1996 21:38:36.70

SUBJECT: TEAM Act cover memo

TO: John C. Angell (ANGELL_J) (WHO)
READ:16-JUL-1996 11:02:49.77

TO: Gene B. Sperling (SPERLING_G) Autoforward to: Daniel Taber
READ:16-JUL-1996 08:28:33.01

TO: John Hilley (HILLEY_J) Autoforward to: Elisa M. Mills
READ:16-JUL-1996 08:00:57.54

TO: Elena Kagan (KAGAN_E) (WHO)
READ:16-JUL-1996 08:55:13.59

TO: Tracey E. Thornton (THORNTON_T) (WHO)
READ:NOT READ

CC: Elisa M. Millsap (MILLSAP_E) (WHO)
READ:16-JUL-1996 08:00:57.54

CC: Jason S. Goldberg (GOLDBERG_JS) (OPD)
READ:NOT READ

TEXT:

The attached is a draft cover memo to the draft TEAM Act letter to CEOs. It aims to explain to the President why he is getting the version that doesn't endorse legislative amendments of the NLRA. Please get me your comments as soon as you can. Also -- who is it from? Leon? The bunch of us? Also -- should it indicate who on the staff is where on these issues?

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:15-JUL-1996 21:34:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Jennifer M. O'Connor

TEXT:

PRINTER FONT 12_POINT_ROMAN
July 15, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: ??

SUBJECT: TEAM ACT LETTER TO CEOS

Attached is a draft letter responding to 634 CEOs who wrote to ask you not to veto the TEAM Act. This draft is consistent with the legislative strategy that was successful during both the House and Senate consideration of the TEAM Act. When the Senate voted last Wednesday, all Senate Democrats but two (Hollings and

Nunn) voted against the TEAM Act, and Senator Ben Nighthorse Campbell joined the Democrats voting "no."

The letter articulates the message that was successful in Congress, and was articulated in the Statement of Administration Policy: 1) the Administration strongly supports labor

-management

partnerships; 2) labor management partnerships are flourishing under current law; 3) the TEAM Act wouldn't increase or strengthen these partnerships but instead would undermine the collective bargaining system. It also points out that the NLRB will independently continue to clarify the law in this area. It does not endorse any legislation to change current law.

Pros:

? Makes a strong statement in favor of labor

-management

partnerships and your consistent support of them.

? Will not cause unintended consequences in the Congress.

Constituents who are most concerned about the TEAM Act fear that if you make a positive statement about changes to

§8(a)(2) of the National Labor Relations Act, you will generate renewed interest in finding a legislative

compromise that you could sign. They point out that the

alternative Democratic bills have not generated any media stories suggesting that Democrats want to amend §8(a)(2).

But they fear that presidential support for changes to §8(a)(2) is a different matter and will create momentum that

will lead to actual changes in the law. They believe that any changes to

§8(a)(2) risk making it more difficult for employees to organize new workplaces; and so they believe any such changes are tantamount to an assault on the right of employees to organize unions.

As an immediate matter, the House has yet to vote on the Senate version of the TEAM Act. Any positive presidential statements about amending the law prior to that vote could potentially lead to the same problems outlined above.

? Maintains a balanced approach to labor policy. While the NLRB estimates that an average of three businesses per year are ordered to disband labor

-management committees due to

violations of §8(a)(2), it estimates that XX thousand businesses are found guilty each year of illegally firing employees because they support unions. It would appear unbalanced to address the business community's concerns without also addressing related employee/union concerns which also undermine cooperation in the workplace.

? Will not generate criticism from the labor movement. The

AFL

-CIO views this issue a threat to employees' ability to organize -- the very essence of the labor movement. Their sentiments on this issue are even more intense than their sentiments about NAFTA.

Cons:

? If this issue takes on a larger symbolic prominence in the public debate, we will be hard pressed to explain why you

are not supporting an alternative bill supported by 202 Democratic House Members and 37 (check) Democratic Senators.
 ? Some in the business community argue clarification is needed and this letter addresses that concern merely by noting the NLRB's ability to clarify the law.
 ? Could be viewed as giving in to labor constituents' demands.

Alternative

The attached letter could also be amended to include a paragraph stating that to the extent some employers are reluctant to use labor

-management cooperation efforts due to confusion about the law, you would welcome reasonable clarifications to the law, along the lines of the Democratic bill in the Senate. The advantage of this approach is it addresses the problems outlined in the "cons" section above, enabling you to state that you, like the many Democrats who voted for the bill, are in favor of legislative changes that facilitate labor

-management

partnerships. The disadvantage of this approach is that it negates all but the first "pro" outlined above, potentially leading to unintended congressional results and definitely leading to harsh criticism from supporters.

Options

_____ Letter as drafted _____ Alternative _____
 Let's discuss
 ===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: M. Jill Gibbons (GIBBONS_M) (OMB)

CREATION DATE/TIME:16-JUL-1996 14:48:25.22

SUBJECT: Revised SAP on Campaign Finance

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)

READ:16-JUL-1996 14:54:00.48

TO: Elena Kagan (KAGAN_E) (WHO)

READ:16-JUL-1996 14:54:28.56

TEXT:

The following is the SAP on HR 3760 as revised by WH/LA (Jacoby). Please provide any comment or sign off as soon as possible but no later than 3:30.

Thanks

PRINTER FONT 12_POINT_ROMAN

DRAFT - NOT FOR RELEASE

July 16, 1996

(House)

H.R. 3760 - Campaign Finance Reform Act of 1996

(Rep. Thomas (R) WY and 8 cosponsors)

The Administration strongly opposes H.R. 3760. This legislation drives campaign financing in the wrong direction by encouraging a dramatic increase in campaign spending and enhancing the role of wealthy individuals and special interests in federal elections. Increased campaign contribution limits for individuals and political action committees when they give to State and national parties will result in increased influence for a special few at the expense of the vast majority of the American public. Additionally, the bill does not address the real problems with the Nation's campaign finance system, such as the rising cost of campaigns, the influence of special interests, the costs of television and radio broadcast time, or ending the "soft money" system. To the contrary, H.R. 3760 would increase the cost of elections, give special interests an even greater voice in the political process, discourage real competition in races across the Nation, and tip the scales further in favor of incumbents.

* * * * *

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Alice E. Shuffield (SHUFFIELD_A) (OMB)

CREATION DATE/TIME:16-JUL-1996 14:53:23.11

SUBJECT: POTUS Campaign Finance letter - quick clearance

TO: Martha Foley (FOLEY_M) (WHO)
READ:17-JUL-1996 11:54:22.83

TO: John C. Angell (ANGELL_J) (WHO)
READ:16-JUL-1996 14:54:42.09

TO: Michael Waldman (WALDMAN_M) (WHO)
READ:16-JUL-1996 15:37:59.69

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:16-JUL-1996 14:55:05.67

TO: Elena Kagan (KAGAN_E) (WHO)
READ:16-JUL-1996 14:56:33.64

CC: Christopher F. Walker (WALKER_C) (WHO)
READ:NOT READ

CC: Peter Jacoby (JACOBY_P) (WHO)
READ:16-JUL-1996 18:35:09.62

TEXT:

Below is a Presidential letter to Speaker Gingrich regarding Campaign Finance Reform, drafted by Peter Jacoby/John Hilley.

Please let me know as soon as possible if you have any concerns. White House Legislative Affairs aims to have the letter prepared for the President's signature this afternoon. The bill (H.R. 3760) is going to the House Rules Committee tonight, and to the House floor tomorrow.

THANKS!

Alice (5-4790)

=====
ATT CREATION TIME/DATE:16-JUL-1996 12:15:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Peter Jacoby

ATT SUBJECT: Campaign Finance Letter for Circulation (Hilley has approved)

ATT TO: Alice E. Shuffield (SHUFFIELD_A)

TEXT:

=====
END ATTACHMENT 1

=====
ATT CREATION TIME/DATE:16-JUL-1996 10:09:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Peter Jacoby

ATT SUBJECT: Campaign Finance Reform Letter for John's Approval

ATT TO: Elisa M. Millsap (MILLSAP_E)

TEXT:

July 16, 1996

Dear Speaker Gingrich:

Just over a year ago, I shook hands with you and publicly affirmed my commitment to reforming the nation's campaign finance laws. As the House begins to consider campaign finance reform legislation, I urge you to follow through on our commitment and send me legislation that will address the American public's desire for real change in our political process, and in so doing renew our democracy and strengthen our country.

Unfortunately, I believe the leading Republican campaign finance reform bill, H.R. 3760, by Congressman Thomas, falls far short of our commitment. This legislation would drive campaign financing in the wrong direction. For example, the increased campaign contribution limits in this measure will only work to enhance the role of wealthy individuals and special interests in federal elections. This will ultimately undermine the participation of the average citizen in elections and weaken, not strengthen, our political system.

Organized interests already have too much power in the halls of government and the Thomas legislation would only work to expand that power. As an alternative, I urge your support for the comprehensive, bipartisan legislation crafted by Congresswoman Smith, Congressman Meehan and Congressman Shays. In particular, I approve of several reforms such as placing limits on spending, curbing PAC and lobbyist influence, discounting the cost of broadcast time, and reforming the soft money system.

As we work to reform campaign finance, we must do everything in our power to ensure that we open, not limit, the political process. Our goal is to take the reins of our democracy away from big special interests, from big money, and to return them to the hands of those who deserve them -- ordinary Americans. Real reform is now achievable. I urge you to lead the House in passing sensible, comprehensive bipartisan campaign finance reform legislation and give the American people something we can all be proud of.

Sincerely,

The Honorable Newt Gingrich

The Speaker
United States House of Representatives
Washington, D.C. 20515

===== END ATTACHMENT 2 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Timothy D. Johnson (JOHNSON_TD) (OMB)

CREATION DATE/TIME:19-JUL-1996 10:29:11.18

SUBJECT: HR 1916, LRM#5076

TO: Elena Kagan (KAGAN_E) (WHO)
READ:19-JUL-1996 11:47:47.56

TO: Steven D. Aitken (AITKEN_S) (OMB)
READ:19-JUL-1996 11:06:31.25

TO: Dennis Burke (BURKE_D) (OPD)
READ:22-JUL-1996 10:09:19.11

TEXT:

I apologize for not including the bill number and LRM number in my previous message.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Lyndell Hogan (HOGAN_L) (OPD)

CREATION DATE/TIME:19-JUL-1996 10:33:04.72

SUBJECT: RU-486 Talking Points Re: Today's Hearing

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ:19-JUL-1996 16:37:48.95

TO: Martha Foley (FOLEY_M) (WHO)
READ:19-JUL-1996 18:05:26.18

TO: Elena Kagan (KAGAN_E) (WHO)
READ:19-JUL-1996 11:48:20.80

TO: George Stephanopoulos (STEPHANOPO_G) Autoforward to: Laura Capp
READ:19-JUL-1996 10:36:15.86

TO: Deborah L. Fine (FINE_D) (OPD)
READ:19-JUL-1996 10:33:17.75

TO: Todd Stern (STERN_T) (WHO)
READ:NOT READ

TO: Betsy Myers (MYERS_B) (WHO)
READ:19-JUL-1996 11:52:48.71

TO: Peter Jacoby (JACOBY_P) (WHO)
READ:19-JUL-1996 10:58:37.70

TO: Carol H. Rasco (RASCO_C) (WHO)
READ:19-JUL-1996 12:48:39.48

TO: Nancy-Ann E. Min (MIN_N) (OMB)
READ:19-JUL-1996 11:18:54.65

TO: Marilyn Yager (YAGER_M) (WHO)
READ:22-JUL-1996 13:53:58.50

TO: Elizabeth E. Drye (DRYE_E) (OPD)
READ:19-JUL-1996 13:54:19.25

TO: Douglas B. Sosnik (SOSNIK_D) (WHO)
READ:19-JUL-1996 14:50:45.94

TO: Karen L. Hancox (HANCOX_K) (WHO)
READ:19-JUL-1996 10:38:58.70

TO: Jennifer L. Klein (KLEIN_J) (OPD)
READ:19-JUL-1996 12:40:18.11

TO: Katharine M. Button (BUTTON_K) (WHO)
READ:19-JUL-1996 12:58:01.43

TO: Barbara C. Chow (CHOW_B) (WHO)
READ:19-JUL-1996 13:22:48.25

TO: Kathleen D. Hendrix (HENDRIX_K) (WHO)

READ:NOT READ

TO: Evelyn S. Lieberman (LIEBERMAN_E) (WHO)
READ:19-JUL-1996 12:18:24.81

TO: Kevin Moran (MORAN_K1) (WHO)
READ:19-JUL-1996 10:34:21.15

TO: Victoria L. Radd (RADD_V) (WHO)
READ:19-JUL-1996 10:35:13.43

TO: Michael McCurry (MCCURRY_M) (WHO)
READ:19-JUL-1996 12:03:30.42

TO: Barry Toiv (TOIV_B) (WHO)
READ:19-JUL-1996 11:24:07.84

TO: Mary Ellen Glynn (GLYNN_M) (WHO)
READ:22-JUL-1996 13:34:58.43

TEXT:

PRINTER FONT 12_POINT_COURIER

M E M O R A N D U M

To: Distribution

From: Lyn Hogan

Date: July 19, 1996

Re: Q&A For Mifepristone (RU

-486) Hearing

Please refer questions about the FDA process to Jim O'Hara,
301

-443

-1130, at FDA Public Affairs.

PRINTER FONT 14_POINT_COURIER

Background

PRINTER FONT 12_POINT_COURIER

Today, Friday, July 19, the FDA's Reproductive Health Drugs
Advisory Committee will consider data submitted by the Population
Council as part of a New Drug Application (NDA) for Mifepristone.
FDA routinely refers NDAs to this Advisory Committee and asks the
panel for a recommendation on the drug's safety and efficacy.

Mifepristone, commonly referred to as RU

-486, is an effective,

non

-surgical method of early abortion that has been in use since
1981. The drug was approved for use in France, Great Britain and
Sweden following extensive clinical trials that demonstrated its
safety and efficacy.

During the Bush Administration, the FDA issued an import alert
which helped ensure that mifepristone would not be available in
the United States for any purpose.

On January 22, 1993 the President issued an executive order that
directed the FDA to reassess whether mifepristone qualified for
importation.

PRINTER FONT 14_POINT_COURIER

1) What is expected to happen at today's FDA hearing?

PRINTER FONT 12_POINT_COURIER

Today, Friday, July 19, the FDA's Reproductive Health Drugs Advisory Committee will consider data submitted by the U.S.

-based

Population Council as part of a New Drug Application (NDA) for Mifepristone.

FDA routinely refers NDAs to this Advisory Committee and asks the panel for a recommendation on the safety and efficacy of the drug. Today's advisory committee is the usual next step in the review process of the marketing application.

There will not be a decision on Mifepristone in 1996.

PRINTER FONT 14_POINT_COURIER

2) What official action has the President taken to date regarding RU

-486?

PRINTER FONT 12_POINT_COURIER

January 22, 1993 the President issued an executive order that:

PRINTER FONT 24_POINT_COURIER

? Directed the FDA to reassess

whether Mifepristone qualified

for importation under FDA's

personal use import policy;

? Said that if the FDA concluded

Mifepristone meets the criteria

for personal use importation

exemption, Sec. Shalala should

rescind the Import Alert 66

-47;

and

? Ordered HHS to assess

initiatives to promote the

testing, licensing, and

manufacturing in the U.S. of

Mifepristone.

PRINTER FONT 14_POINT_COURIER

3) Prior to this hearing, what has the FDA concluded?

PRINTER FONT 12_POINT_COURIER

In July 1993, the FDA concluded that Mifepristone is not an appropriate candidate for the FDA's personal use policy governing the importation of unapproved new drugs.

In its assessment, FDA determined that the distribution of

Mifepristone is very tightly controlled in the UK, France, and

Sweden, where it is approved. The strictly regulated

administration of mifepristone in those countries suggests that

it may not be able to be safely taken without careful medical

supervision and controls.

PRINTER FONT 14_POINT_COURIER

4) Since the FDA ruled that this drug is not safe for personal use, why are they continuing with

regulatory hearings?

PRINTER FONT 12_POINT_COURIER

The FDA believes the drug can be taken safely with careful medical supervision and controls, and therefore, in routine fashion, has referred the New Drug Application to this Advisory Committee to ask the panel for a recommendation on the safety and efficacy of the drug.

PRINTER FONT 14_POINT_COURIER

5) How can we be sure the FDA process is a fair, objective process?

PRINTER FONT 24_POINT_COURIER

? The FDA advisory committee is a nonpartisan, objective committee comprised of scientists and doctors from outside the FDA.

? The process for approving New Drug Applications is based in science and medicine.

? The FDA is giving mifepristone a straightforward, honest review and will make their decision on the basis of whether this drug is safe for American women.

? The FDA follows well established procedures to assess independently all published studies and data, including those from other countries.

? Voting members of the FDA Advisory Committees are subject to conflict of interest laws and regulations governing federal employees and Advisory Committee members are required to have diverse professional education, training, and experience.

PRINTER FONT 14_POINT_COURIER

6) I understand that two members on the review panel were forced to resign because of pressure from right

-to

-life groups. Is this true?

PRINTER FONT 12_POINT_COURIER

This is a rumor and is inaccurate. Two members on the panel had conflicts of interest so were recused.

PRINTER FONT 14_POINT_COURIER

7) What are the pro

-life groups and pro

-choice

groups saying about RU

-486?

PRINTER FONT 12_POINT_COURIER

Pro

-Life

On July 18, pro

-life groups held a press conference on the FDA hearings.

The Family Research Council (FRC) lead by Gary Bauer issued a statement calling on the FDA not to approve RU

-486 due to ethical

considerations. In the statement, the FRC questioned the drug's safety and efficacy.

At the same time, the FRC accused the FDA of attempting to circumvent its own approval statutes that ensure safe and effective drugs for the sake of the lives and safety of women and children.

Other pro

-life organizations claim RU

-486 has long

-term health

risks for mothers and children.

Last summer a pro

-life group, Americans United For Life, and other abortion opponents, submitted a Citizen's Petition to the FDA opposing approval of mifepristone. They did so before the clinical trials were over and before the extensive scientific data collected by the Population Council was submitted to the FDA.

Pro

-Choice

Also on July 18, women's and reproductive health advocates held a press conference to call for approval of mifepristone. These groups called mifepristone a major medical advance for women and described its expected positive impact on the provision of women's health care services in this country.

The Feminist Majority is concerned that five Reproductive Health Advisory Committee members have demonstrated that they have a conflict of interest with the subject matter of the July 19 meeting concerning mifepristone. They expressed their concern in a July 10 letter to FDA Commissioner David Kessler.

PRINTER FONT 14_POINT_COURIER

8) Why does the Population Council hold the U.S.

patent on mifepristone?

PRINTER FONT 12_POINT_COURIER

Roussel Uclaf, a French subsidiary of the German company, held two United States patents for its product, Mifepristone. On May

16, 1994 Rousell Uclaf, at the encouragement of the Clinton Administration, donated its United States patent rights for mifepristone to the U.S.

□

-based Population Council, a

not

□

-for

□

-profit organization, to allow the Population Council to begin the necessary steps to bring Mifepristone to market in this country. U.S. clinical trials conducted by the Population Council were completed in September 1995.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Timothy D. Johnson (JOHNSON_TD) (OMB)

CREATION DATE/TIME:19-JUL-1996 14:17:34.49

SUBJECT: HR 1916 - LRM 5076 Civil Asset Forfeiture

TO: Elena Kagan (KAGAN_E) (WHO)
READ:19-JUL-1996 15:15:54.40

TO: Dennis Burke (BURKE_D) (OPD)
READ:22-JUL-1996 07:44:12.26

TEXT:

I am clearing the DOJ testimony at 3:00pm. If I don't hear from you by then, I'll assume that you have no comments. Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Lyndell Hogan (HOGAN_L) (OPD)

CREATION DATE/TIME:19-JUL-1996 18:27:13.51

SUBJECT: FDA Advisory Committee Voted Yes On RU-486

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ:19-JUL-1996 18:48:43.84

TO: Martha Foley (FOLEY_M) (WHO)
READ:22-JUL-1996 09:32:10.08

TO: Elena Kagan (KAGAN_E) (WHO)
READ:19-JUL-1996 19:12:50.48

TO: George Stephanopoulos (STEPHANOPO_G) Autoforward to: Laura Capp
READ:19-JUL-1996 18:57:37.12

TO: Deborah L. Fine (FINE_D) (OPD)
READ:21-JUL-1996 12:06:10.73

TO: Todd Stern (STERN_T) (WHO)
READ:NOT READ

TO: Betsy Myers (MYERS_B) (WHO)
READ:19-JUL-1996 21:27:36.58

TO: Peter Jacoby (JACOBY_P) (WHO)
READ:19-JUL-1996 18:27:51.67

TO: Carol H. Rasco (RASCO_C) (WHO)
READ:21-JUL-1996 16:45:46.11

TO: Nancy-Ann E. Min (MIN_N) (OMB)
READ:22-JUL-1996 17:40:12.94

TO: Marilyn Yager (YAGER_M) (WHO)
READ:22-JUL-1996 14:00:25.97

TO: Elizabeth E. Drye (DRYE_E) (OPD)
READ:19-JUL-1996 19:36:13.72

TO: Douglas B. Sosnik (SOSNIK_D) (WHO)
READ:20-JUL-1996 13:18:42.58

TO: Karen L. Hancox (HANCOX_K) (WHO)
READ:19-JUL-1996 20:48:02.85

TO: Jennifer L. Klein (KLEIN_J) (OPD)
READ:19-JUL-1996 19:17:16.24

TO: Katharine M. Button (BUTTON_K) (WHO)
READ:19-JUL-1996 19:29:34.97

TO: Barbara D. Woolley (WOOLLEY_B) (WHO)
READ:19-JUL-1996 18:31:34.82

TO: Barbara C. Chow (CHOW_B) (WHO)

READ:22-JUL-1996 09:04:49.87

TO: Kathleen D. Hendrix (HENDRIX_K) (WHO)
READ:NOT READ

TO: Evelyn S. Lieberman (LIEBERMAN_E) (WHO)
READ:19-JUL-1996 19:45:26.15

TO: Kevin Moran (MORAN_K1) (WHO)
READ:22-JUL-1996 08:38:50.72

TO: Victoria L. Radd (RADD_V) (WHO)
READ:20-JUL-1996 09:30:46.87

TO: Michael McCurry (MCCURRY_M) (WHO)
READ:20-JUL-1996 13:14:24.63

TO: Barry Toiv (TOIV_B) (WHO)
READ:19-JUL-1996 18:46:42.72

TO: Mary Ellen Glynn (GLYNN_M) (WHO)
READ:22-JUL-1996 11:39:49.87

TEXT:

As of 6:00 p.m. July 19, the FDA Advisory Committee had taken its votes on mifepristone (also known as RU-486). There are 8 voting people on the committee. Three votes were significant. A verbal report from Dept. of Health and Human Services indicates the following results:

Members voted: On the efficacy of mifepristone, 6 yes, 2 no
On the safety of mifepristone, 7 yes, 1 abstained
On approval of mifepristone, 6 yes, 2 abstained

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: James J. Jukes (JUKES_J) (OMB)

CREATION DATE/TIME:23-JUL-1996 14:52:13.77

SUBJECT: Justice letter on Deutsch Amdt to CJS Approps. Bill

TO: Elena Kagan (KAGAN_E) (WHO)
READ:23-JUL-1996 14:54:24.01

TO: Dennis Burke (BURKE_D) (OPD)
READ:23-JUL-1996 15:49:00.09

TO: David J. Haun (HAUN_D) (OMB)
READ:23-JUL-1996 15:29:20.74

TO: John E. Thompson (THOMPSON_J) (OMB)
READ:23-JUL-1996 16:55:00.06

TO: Charles E. Kieffer (KIEFFER_C) (OMB)
READ:23-JUL-1996 18:21:26.30

TO: Alice E. Shuffield (SHUFFIELD_A) (OMB)
READ:23-JUL-1996 15:42:26.53

TO: Lisa E. Jacobson (JACOBSON_LE) (OMB)
READ:23-JUL-1996 15:06:56.59

TO: James C. Murr (MURR_J) (OMB)
READ:23-JUL-1996 15:26:57.12

TO: Ronald E. Jones (JONES_RE) (OMB)
READ:23-JUL-1996 14:52:31.56

TO: Janet R. Forsgren (FORSGREN_J) (OMB)
READ:23-JUL-1996 17:44:52.00

CC: Barbara C. Chow (CHOW_B) (WHO)
READ:24-JUL-1996 08:33:33.80

CC: Peter Jacoby (JACOBY_P) (WHO)
READ:23-JUL-1996 19:45:38.97

TEXT:

Justice has just submitted for "instantaneous" clearance a brief statement, the text of which is below, on an amendment to be offered by Rep. Deutsch to the Commerce-Justice-State appropriations bill, which is now being debated on the House floor. Please give me any comments by 3:15 p.m. Thank you.

Background

The Deutsch amendment would reduce by 10 percent certain Federal law enforcement grants to State and local entities that fail to provide public safety officers who retire or are separated due to certain injuries suffered in the line of duty "the same or better level of health insurance benefits" as were paid at the time of retirement or separation.

The statement was prepared at the request of Barbara Chow in WH/LA. Justice is checking with Barbara to see if she wants the following text formatted into a letter from Justice to the

appropriators.

Text of Justice Statement

"The Administration fully supports the goal of maintaining adequate health insurance coverage for law enforcement officers injured and disabled in the line of duty. Indeed, it supports ensuring that all Americans have sufficient health insurance.

"We must work to ensure the goal of providing insurance for injured law enforcement personnel while not imposing large financial burdens and unfunded mandates on state and local governments. We must also work towards the goal of proper coverage while not threatening essential crime fighting funds needed by state and local law enforcement such as the Byrne grants program, the Violence Against Women funds and the COPS program.

"We would be happy to work with the sponsor of the amendment and all concerned to meet this need in the most effective way possible."

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Alice E. Shuffield (SHUFFIELD_A) (OMB)

CREATION DATE/TIME:23-JUL-1996 21:23:02.54

SUBJECT: POTUS Campaign Finance letter to Gingrich -- for clearance

TO: Jacob J. Lew (LEW_J) (OMB)
READ:24-JUL-1996 14:52:39.41

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:24-JUL-1996 11:44:15.75

TO: Joseph Minarik (MINARIK_J) (OMB)
READ:24-JUL-1996 07:45:43.57

TO: Martha Foley (FOLEY_M) (WHO)
READ:24-JUL-1996 09:29:39.82

TO: John C. Angell (ANGELL_J) (WHO)
READ:24-JUL-1996 09:04:17.00

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)
READ:24-JUL-1996 14:14:29.39

TO: LAWRENCE J. HAAS (HAAS_L) (OMB)
READ:24-JUL-1996 10:47:15.38

TO: Elena Kagan (KAGAN_E) (WHO)
READ:24-JUL-1996 10:03:33.15

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:24-JUL-1996 10:42:12.82

CC: M. Jill Gibbons (GIBBONS_M) (OMB)
READ:24-JUL-1996 08:58:51.68

CC: James J. Jukes (JUKES_J) (OMB)
READ:24-JUL-1996 09:39:23.29

CC: Charles S. Konigsberg (KONIGSBERG_C) (OMB)
READ:25-JUL-1996 14:06:31.84

CC: Charles E. Kieffer (KIEFFER_C) (OMB)
READ:23-JUL-1996 23:12:29.28

CC: Jill M. Blickstein (BLICKSTEIN_J) (OMB)
READ:24-JUL-1996 08:09:39.97

TEXT:

Below is a revised POTUS letter to the Speaker regarding campaign finance, similar to the one circulated last week. The 2nd, 3rd, and 4th paragraphs, which now address the Rules Committee's actions, contain the only changes.

Please let me know if you have any comments by 11 am Wednesday morning. The letter will go to the President's desk for signature on Wednesday afternoon.

THANKS!

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:23-JUL-1996 19:35:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Peter Jacoby

ATT SUBJECT: CFR Letter For Your Review

ATT TO: Alice E. Shuffield (SHUFFIELD_A)

TEXT:

===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====

ATT CREATION TIME/DATE:23-JUL-1996 12:10:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Peter Jacoby

ATT SUBJECT: Revised CFR letter to Gingrich for Review

ATT TO: Elisa M. Millsap (MILLSAP_E)

ATT TO: M. Jill Gibbons (GIBBONS_M)

TEXT:

July 23, 1996

Dear Speaker Gingrich:

Just over a year ago, I shook hands with you and publicly affirmed my commitment to reforming the nation's campaign finance laws. As the House considers campaign finance reform legislation this week, I urge you to follow through on our commitment and send me legislation that will address the American public's desire for real change in our political process, and in so doing renew our democracy and strengthen our country.

Unhappily, I am not encouraged that either the leading Republican campaign finance reform bill, H.R. 3820 by Congressman Thomas, or the rule that will govern the House's debate on this critical issue, will lead to acceptable reform legislation.

The Thomas legislation, while admirable in its goal to strengthen the role of parties in federal elections, will allow special interests and wealthy individuals to pour unprecedented amounts of campaign contributions into federal campaigns. The measure's increased contribution limits combined with its failure to implement soft money reforms or address the rising costs of television and radio broadcast time and other campaign expenses will weaken, not strengthen, our political system.

I am also disappointed by the decision of the Republicans on the House Rules Committee to restrict the House from debating any bipartisan campaign finance reform proposal. I have

consistently urged Congress to send me bipartisan reform legislation and I would specifically endorse the comprehensive, bipartisan legislation crafted by Congresswoman Smith, Congressman Meehan and Congressman Shays. This measure places limits on spending, curbs PAC and lobbyist influence, discounts the cost of broadcast time, and reforms the soft money system. Regrettably, the House will be unable to consider this, or any other bipartisan measure, due to the House Rules Committee action.

As we work to reform campaign finance, we must do everything in our power to ensure that we open, not limit, the political process. Our goal is to take the reins of our democracy away from big special interests, from big money, and to return them to the hands of those who deserve them -- ordinary Americans. Real reform is achievable and I urge you to lead the House in passing sensible, comprehensive bipartisan campaign finance reform legislation and give the American people something we can all be proud of.

Sincerely,

The Honorable Newt Gingrich
The Speaker
United States House of Representatives
Washington, D.C. 20515

===== END ATTACHMENT 2 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins (HASKINS_M) (OMB)

CREATION DATE/TIME:24-JUL-1996 10:53:45.44

SUBJECT: **** SSA TESTIMONY FOR CLEARANCE 7/24/96 *****

TO: Kenneth S. Apfel (APFEL_K) (OMB)
READ:24-JUL-1996 11:26:23.54

TO: Mary I. Cassell (CASSELL_M) (OMB)
READ:25-JUL-1996 09:01:26.03

TO: Cynthia M. Smith (SMITH_CM) (OMB)
READ:24-JUL-1996 11:20:31.53

TO: John A. Koskinen (KOSKINEN_J) (OMB)
READ:24-JUL-1996 14:06:13.41

TO: William A. Halter (HALTER_W) (OMB)
READ:24-JUL-1996 10:54:59.98

TO: Sally Katzen (KATZEN_S) (OMB)
READ:24-JUL-1996 13:44:22.47

TO: Michael A. Fitzpatrick (FITZPATRIC_M) (OMB)
READ:24-JUL-1996 11:22:11.23

TO: Joseph Minarik (MINARIK_J) (OMB)
READ:24-JUL-1996 11:30:54.89

TO: Justine F. Rodriguez (RODRIGUEZ_J) (OMB)
READ:24-JUL-1996 11:06:11.76

TO: Barry White (WHITE_B) (OMB)
READ:25-JUL-1996 07:38:08.90

TO: Keith J. Fontenot (FONTENOT_K) (OMB)
READ:24-JUL-1996 11:23:12.24

TO: Richard E. Green (GREEN_R) (OMB)
READ:24-JUL-1996 10:57:11.57

TO: Jack A. Smalligan (SMALLIGAN_J) (OMB)
READ:26-JUL-1996 10:56:45.47

TO: Desiree Filippone (FILIPPONE_D) (OMB)
READ:24-JUL-1996 10:54:09.61

TO: Laura A. Oliven (OLIVEN_L) (OMB)
READ:24-JUL-1996 11:05:39.29

TO: Edward C. Springer (SPRINGER_E) (OMB)
READ:24-JUL-1996 11:01:01.35

TO: Maya A. Bernstein (BERNSTEIN_M) (OMB)
READ:24-JUL-1996 16:51:57.02

TO: Alice E. Shuffield (SHUFFIELD_A) (OMB)

READ:24-JUL-1996 12:23:56.80

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

READ:25-JUL-1996 14:08:01.53

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)

READ:24-JUL-1996 14:24:14.31

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)

READ:24-JUL-1996 11:00:44.55

TO: Molly Brostrom (BROSTROM_M) (WHO)

READ:24-JUL-1996 10:59:48.15

TO: Diana M. Fortuna (FORTUNA_D) (OPD)

READ:24-JUL-1996 13:17:16.23

TO: Robert G. Damus (DAMUS_R) (OMB)

READ:24-JUL-1996 11:45:50.60

TO: Elena Kagan (KAGAN_E) (WHO)

READ:24-JUL-1996 11:49:31.27

TO: Arthur W. Stigile (STIGILE_A) Autoforward to: Remote Address

READ:NOT READ

TO: Bruce W. McConnell (MCCONNELL_B) Autoforward to: Remote Address

READ:NOT READ

TO: John F. Morrall, III (MORRALL_J) (OMB)

READ:NOT READ

CC: James C. Murr (MURR_J) (OMB)

READ:24-JUL-1996 11:44:41.15

CC: Janet R. Forsgren (FORSGREN_J) (OMB)

READ:24-JUL-1996 12:09:40.10

TEXT:

This morning, SSA sent us testimony on "SSA as an Independent Agency" for clearance this afternoon. Commissioner Chater is scheduled to deliver this testimony tomorrow morning (7/25) before the House Subcommittee on Social Security. Although much of the testimony is "oversight", the solvency issue is discussed.

You should be receiving SSA's testimony shortly (see LRM 5149). Comments are due to me by 2 pm today. This is a firm deadline. Thanks for your help.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear (BEAR_D) (CEQ)

CREATION DATE/TIME:24-JUL-1996 11:41:29.22

SUBJECT: 9th Circuit confirms murrelet ruling

TO: T J Glauthier (GLAUTHIER_T) (OMB)
READ:24-JUL-1996 12:04:08.60

TO: Martha Foley (FOLEY_M) (WHO)
READ:24-JUL-1996 12:34:29.24

TO: Barbara C. Chow (CHOW_B) (WHO)
READ:24-JUL-1996 20:21:13.72

TO: Elena Kagan (KAGAN_E) (WHO)
READ:24-JUL-1996 11:56:02.79

TO: Jennifer M. O'Connor (OCONNOR_J) (WHO)
READ:24-JUL-1996 12:38:16.28

TO: Ruth D. Saunders (SAUNDERS_R) (OMB)
READ:24-JUL-1996 11:55:39.65

TO: Christine L. Nolin (NOLIN_CL) (OMB)
READ: 1-AUG-1996 09:27:59.79

TO: Deborah L. Fine (FINE_D) (OPD)
READ:24-JUL-1996 13:39:15.21

TO: Brian J. Johnson (JOHNSON_BJ) (CEQ)
READ:24-JUL-1996 15:21:15.84

TO: Michelle Denton (DENTON_M) (CEQ)
READ:24-JUL-1996 11:45:09.04

CC: Kathleen A. McGinty (MCGINTY_K) (CEQ)
READ:24-JUL-1996 17:58:29.46

TEXT:

Yesterday, the Ninth Circuit Court of Appeals denied the industry plaintiffs (Northwest Forest Resources Council) petition for rehearing in the decision dealing with how the land management agencies determine how marbled murrelets are "nesting". We doubt the plaintiffs will go to the Supreme Court on this; it's probably the end of the road for them on the legal front.

This leaves the issue of replacement timber of like kind, value and volume as the remaining big issue related to the implementation of Section 2001(k) (the old growth sales). USDA has sent a directive to the Forest Service instructing them to begin the process of identifying and offering replacement timber sales that are in compliance with all environmental laws, and to use the remaining unadvertised FY 1996 Northwest Forest Plan timber as the first source for that. There are rumblings that the purchasers won't take forest plan timber because it puts them at odds with other timber companies who want to bid on that timber. Industry has approached USDA about opening discussions on the replacement timber; there will be a meeting later this week with

representatives of USDA and Justice and industry reps. to explore a possible settlement (this should stay close hold for now). On another but related timber front, various environmental groups will be noting the year anniversary of the signing of the timber rider this week with demonstrations, etc., in the Pacific Northwest. USDA is getting information Thursday on how many salvage sales scheduled to be offered under the rider will be withdrawn as the result of the Secretary's recent directive; however, they are debating whether to release that information immediately or whether to wait for an August 1st Senate Energy and Resources hearing at which Senator Craig will criticize the directive.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: M. Jill Gibbons (GIBBONS_M) (OMB)

CREATION DATE/TIME: 24-JUL-1996 12:22:08.17

SUBJECT: Justice letter on S.1629 - 10th Amendment

TO: Elena Kagan (KAGAN_E) (WHO)
READ: 24-JUL-1996 13:23:03.54

TO: Steven D. Aitken (AITKEN_S) (OMB)
READ: 24-JUL-1996 12:46:22.25

TO: Michael A. Fitzpatrick (FITZPATRIC_M) (OMB)
READ: 24-JUL-1996 13:20:19.82

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ: 24-JUL-1996 14:27:49.13

TEXT:

Please provide any comments or sign off on the Justice letter on S. 1629, the Tenth Amendment Enforcement Act (See LRM 5139) by 2:00 today. The bill is being marked up in full committee tomorrow. If we do not hear from you by 2:00, we will assume that you have no comment. Thank you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: James J. Jukes (JUKES_J) (OMB)

CREATION DATE/TIME:24-JUL-1996 15:53:50.52

SUBJECT: Inspector General for the EOP

TO: Elena Kagan (KAGAN_E) (WHO)
READ:24-JUL-1996 17:31:32.96

TO: Kathleen M. Whalen (WHALEN_K) (WHO)
READ:24-JUL-1996 15:55:47.93

TO: Nelson W. Cunningham (CUNNINGHAM_N) (OA)
READ:24-JUL-1996 15:53:45.60

TO: Steven D. Aitken (AITKEN_S) (OMB)
READ:24-JUL-1996 16:05:44.71

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:24-JUL-1996 16:45:45.79

TO: Robert B. Rideout (RIDEOUT_R) (OMB)
READ:24-JUL-1996 15:59:45.23

TO: Raymond P. Kogut (KOGUT_R) (OMB)
READ:24-JUL-1996 15:58:03.34

TO: Wendy B. Zenker (ZENKER_W) (OMB)
READ:24-JUL-1996 15:54:11.29

TO: Norwood J. Jackson Jr (JACKSON_N) (OMB)
READ:NOT READ

TO: G. Edward DeSeve (DESEVE_G) (OMB)
READ:29-JUL-1996 10:19:02.89

TO: Suzanne M. Murrin (MURRIN_S) (OMB)
READ:24-JUL-1996 16:01:43.71

TO: John A. Koskinen (KOSKINEN_J) (OMB)
READ:24-JUL-1996 16:19:23.61

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:24-JUL-1996 16:45:51.83

CC: James C. Murr (MURR_J) (OMB)
READ:24-JUL-1996 17:22:13.21

CC: M. Jill Gibbons (GIBBONS_M) (OMB)
READ:24-JUL-1996 15:54:05.75

CC: Deborah L. Shaw (SHAW_D) (OMB)
READ:24-JUL-1996 15:56:28.64

CC: Scott Quehl (QUEHL_S) (OMB)
READ:24-JUL-1996 15:56:09.22

TEXT:

You should have received within the last hour LRM #5161, which requests your comments on a draft Justice letter opposing on constitutional grounds the establishment of an Inspector General within the Executive Office of the President. The LRM requests comments on the letter by 5:00 today.

We understand that at tomorrow's Government Reform and Oversight Committee markup of HR 3452, the "Presidential and Executive Office Accountability Act," an amendment will be offered to establish an IG within the EOP. We believe that the amendment will consist of the text of HR 3872, which was introduced yesterday. We have just obtained HR 3872, and will send it to you momentarily.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins (HASKINS_M) (OMB)

CREATION DATE/TIME:24-JUL-1996 16:36:46.60

SUBJECT: **** URGENT UPDATE ON SSA TESTIMONY (see LRM 5149)

TO: Kenneth S. Apfel (APFEL_K) (OMB)
READ:24-JUL-1996 17:06:19.22

TO: Mary I. Cassell (CASSELL_M) (OMB)
READ:25-JUL-1996 09:04:12.26

TO: Cynthia M. Smith (SMITH_CM) (OMB)
READ:24-JUL-1996 16:36:42.10

TO: John A. Koskinen (KOSKINEN_J) (OMB)
READ:24-JUL-1996 17:06:15.43

TO: William A. Halter (HALTER_W) (OMB)
READ:24-JUL-1996 16:37:45.20

TO: Sally Katzen (KATZEN_S) (OMB)
READ:24-JUL-1996 17:03:15.12

TO: Michael A. Fitzpatrick (FITZPATRIC_M) (OMB)
READ:24-JUL-1996 18:40:20.63

TO: Joseph Minarik (MINARIK_J) (OMB)
READ:24-JUL-1996 18:57:52.07

TO: Justine F. Rodriguez (RODRIGUEZ_J) (OMB)
READ:24-JUL-1996 17:39:16.72

TO: Barry White (WHITE_B) (OMB)
READ:NOT READ

TO: Keith J. Fontenot (FONTENOT_K) (OMB)
READ:24-JUL-1996 16:47:07.30

TO: Richard E. Green (GREEN_R) (OMB)
READ:24-JUL-1996 16:56:10.97

TO: Jack A. Smalligan (SMALLIGAN_J) (OMB)
READ:26-JUL-1996 10:52:49.71

TO: Desiree Filippone (FILIPPONE_D) (OMB)
READ:24-JUL-1996 16:46:04.31

TO: Laura A. Oliven (OLIVEN_L) (OMB)
READ:25-JUL-1996 08:32:10.79

TO: Edward C. Springer (SPRINGER_E) (OMB)
READ:24-JUL-1996 16:38:36.99

TO: Maya A. Bernstein (BERNSTEIN_M) (OMB)
READ:24-JUL-1996 16:51:01.01

TO: Lisa Kountoupes (KOUNTOUPES_L) (OMB)

READ:29-JUL-1996 10:17:43.12

TO: Alice E. Shuffield (SHUFFIELD_A) (OMB)

READ:26-JUL-1996 11:11:27.17

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)

READ:25-JUL-1996 14:20:26.78

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)

READ:24-JUL-1996 17:38:32.02

TO: Molly Brostrom (BROSTROM_M) (WHO)

READ:24-JUL-1996 17:18:11.69

TO: Diana M. Fortuna (FORTUNA_D) (OPD)

READ:24-JUL-1996 16:49:46.08

TO: Gene B. Sperling (SPERLING_G) Autoforward to: Daniel Taber

READ:24-JUL-1996 16:40:05.58

TO: Pauline M. Abernathy (ABERNATHY_P) (OPD)

READ:24-JUL-1996 16:52:29.67

TO: Robert G. Damus (DAMUS_R) (OMB)

READ:24-JUL-1996 16:47:24.69

TO: Elena Kagan (KAGAN_E) (WHO)

READ:24-JUL-1996 17:33:05.42

TO: Alicia K. Kolaian (KOLAIAN_A) (OMB)

READ:24-JUL-1996 16:36:57.71

TO: Bruce W. McConnell (MCCONNELL_B) Autoforward to: Remote Addr

READ:NOT READ

TO: John F. Morrall, III (MORRALL_J) (OMB)

READ:NOT READ

CC: James C. Murr (MURR_J) (OMB)

READ:24-JUL-1996 16:50:49.56

CC: Janet R. Forsgren (FORSGREN_J) (OMB)

READ:25-JUL-1996 10:46:55.46

TEXT:

As you are aware, SSA Commissioner Chater is slated to testify tomorrow at 10 a.m. before the House Subcommittee on Social Security on "SSA as an Independent Agency". Among other topics, the SSA testimony discusses the solvency of the Social Security trust funds, disability-related issues, and welfare reform legislation. OMB received the testimony for clearance this morning.

We have just learned that SSA submitted its testimony to the Hill at 1:30 p.m. today without having received OMB/EXOP edits and OMB clearance to transmit. I will fax you a copy of the uncleared document that was sent to the Subcommittee.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins (HASKINS_M) (OMB)

CREATION DATE/TIME:28-JUL-1996 11:38:49.69

SUBJECT: LRM 7172 HHS Letter on S. 599 Welfare and Law Enforcement

TO: Kenneth S. Apfel (APFEL_K) (OMB)
READ:29-JUL-1996 08:18:55.95

TO: Mary I. Cassell (CASSELL_M) (OMB)
READ:29-JUL-1996 08:28:30.84

TO: Cynthia M. Smith (SMITH_CM) (OMB)
READ:29-JUL-1996 11:59:47.02

TO: Keith J. Fontenot (FONTENOT_K) (OMB)
READ:29-JUL-1996 09:03:09.36

TO: Jeffrey A. Farkas (FARKAS_J) (OMB)
READ:29-JUL-1996 08:36:12.27

TO: Edwin Lau (LAU_E) (OMB)
READ:29-JUL-1996 09:54:54.14

TO: Richard E. Green (GREEN_R) (OMB)
READ:29-JUL-1996 08:49:28.03

TO: Lester D. Cash (CASH_L) (OMB)
READ:29-JUL-1996 09:07:28.15

TO: Mark E. Miller (MILLER_ME) (OMB)
READ:28-JUL-1996 12:10:59.67

TO: Barbara E. Washington (WASHINGTON_B) (OMB)
READ:29-JUL-1996 09:35:48.15

TO: Robert G. Damus (DAMUS_R) (OMB)
READ:29-JUL-1996 09:29:30.82

TO: David J. Haun (HAUN_D) (OMB)
READ:29-JUL-1996 10:46:43.51

TO: Ingrid M. Schroeder (SCHROEDER_I) (OMB)
READ:29-JUL-1996 09:00:41.55

TO: Bruce N. Reed (REED_B) (WHO)
READ:29-JUL-1996 09:35:17.00

TO: Diana M. Fortuna (FORTUNA_D) (OPD)
READ:29-JUL-1996 10:38:50.69

TO: Stephen C. Warnath (WARNATH_S) (OPD)
READ:29-JUL-1996 09:01:52.13

TO: Ellen S. Seidman (SEIDMAN_E) (OPD)
READ:30-JUL-1996 18:54:49.69

TO: Elena Kagan (KAGAN_E) (WHO)

READ:29-JUL-1996 08:56:54.17

CC: James C. Murr

(MURR_J) (OMB)

READ:29-JUL-1996 10:52:04.71

CC: Janet R. Forsgren

(FORSGREN_J) (OMB)

READ:29-JUL-1996 09:47:31.75

TEXT:

Comments on LRM 5172 - HHS' draft letter on S. 599, a bill that would authorize State welfare offices to share information with law enforcement officials -- are due by 11 am, July 29th. Thank you..

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Michael A. Fitzpatrick (FITZPATRIC_M) (OMB)

CREATION DATE/TIME:25-JUL-1996 20:10:22.01

SUBJECT: Tomorrow's E.O. Mtg.

TO: Kumiki S. Gibson (GIBSON_K) Autoforward to: Remote Address
READ:NOT READ

TO: Linda L. Lance (LANCE_L) Autoforward to: Remote Adresse
READ:NOT READ

TO: Paul J. Weinstein, Jr (WEINSTEIN_P) (OPD)
READ:26-JUL-1996 10:12:11.17

TO: Jeremy D. Benami (BENAMI_J) (WHO)
READ:26-JUL-1996 09:58:05.80

TO: Elena Kagan (KAGAN_E) (WHO)
READ:26-JUL-1996 14:20:43.66

TO: Thomas C. Jensen (JENSEN_T) (CEQ)
READ:26-JUL-1996 07:19:55.98

TO: Jefferson B. Hill (HILL_J) (OMB)
READ:26-JUL-1996 08:24:59.10

CC: Sally Katzen (KATZEN_S) (OMB)
READ:26-JUL-1996 11:29:39.12

TEXT:

I've attached a memo for tomorrow's meeting on our compliance with SBREFA's requirements re the Reagan E.O.s Please read it before the meeting, as we only have 30 minutes with Sally and I think (hope) it will move our discussion along more quickly. Thanks.

P.S. In case you haven't heard (and that's entirely possible), the meeting is in Sally's office (rm. 350) at 11:00 a.m.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:25-JUL-1996 20:05:00.00

ATT BODYPART TYPE:p

ATT CREATOR: Michael A. Fitzpatrick

TEXT:

Unable to convert OA\$SHARB2756:ZWKGSU6R4.FGN to ASCII,
The following is a HEX DUMP:

FF57504370040000010A02010000000205000000EB2D0000000200000C5918CEAF71727EA7CFE
D3CBD8E664F06C0F6F4AA3124AEAAB79392D48865B4793723C9A9586C5A20A5BF54E94E91F9461
B37AD48AB55A4C680193CA25E45AA96A6CB728C9E794CFC04B4FCD476C45143B34ED673E949A5B
A5E1A9E4216B56E134C8ADE279637A4369197EB20190C593F8339A30298FE7EA2C40D354799DD5
B93A50D54AF4CB4F5FD5D2471BF8BFACE97E8466180F4841EB492CDEA2B48D0763189825F0D97B
B30D29940292F4F243638146368378081D34A250EFACED32E66195B6181154F3E119ABDE74C40A
27A932EEBE75A64C27578A7B70F2BCDFAA91AB2A2336778DCDDFE3702D9B65E61618F4435A1
16C4FBDA2471F5645BDA2503CE7B81B06B8C8C25131C7CEDD3ACAA768B70261785EDAC439AE7FA
54B51110791B2F939D063587A1780CDB3DC9081AE3DAD172C24F7C79C562BAE936FE241F495E6B

MEMORANDUM TO SALLY KATZEN

FROM: Michael Fitzpatrick

SUBJECT: SBREFA Requirements re Reagan Era Executive Orders

In response to your request during our mid-June meeting regarding SBREFA's E.O. analysis reporting requirements, members of our "E.O. Task Force" have reviewed the relevant executive orders and prepared analyses on current compliance and how the Administration should respond. A summary of their reviews and my recommendations follow.

E.O. 12606 -- Family

Review (Jeremy Ben-Ami/DPC)

- DPC believes the policies embodied in this E.O. are consistent with the Administration's approach to family issues, and has no policy objections to applying these criteria to regulatory review in the short term.
- Following the events in November, minor adjustments to the policy language might be appropriate.
- Once we have determined how to handle this E.O., DPC believes we should consider whether it should present a report to the President on this subject.

Discussion & Recommendations

- Thus far, our "go slow" approach has allowed us to avoid making a hard decision on how to proceed. The House Government and Oversight Committee (GRO) staff, however, continue to work with GAO to design their monitoring process, which will no doubt include collection of quantitative data on what percentage of the major/non-major rules have complied with this E.O.'s certification requirement.
- At some point, we likely will have to decide how to proceed, either because the GAO data collection effort finally gets underway, or because

we do not want to appear to be avoiding the requirements of a bill we supported, particularly on a critical issue like the family.

- Because the policies in this E.O. are consistent with the Administration's, because we are hip-deep in an election, and because family values is a central issues in this campaign, rescinding the E.O. does not seem to be an option. These factors also cut against any sort of "Hey, but the Reagan/Bush Administrations didn't comply either" response/defense.
- The best course is to have the agencies develop a process by which they can comply, with minimal burden, with the E.O.'s certification requirements. Thus, these rules will register as complying in GAO's data collection process. For the relatively few major rules that will be issued between now and November, agencies should spend additional time and effort in conducting a substantive review of the review under the E.O. SBREFA requires that GAO prepare an analysis of these major rules for Congress. OIRA staff can assist the agencies during OMB review.

After November, we can return to the issue and determine whether to rescind, modify, or continue without change the E.O.

E.O. 12612 -- Federalism

Review (Elena Kagan/WH Counsel)

- Elena found less overlap than hoped between the Reagan Federalism E.O. (12612), and the President's Unfunded Mandates (12875) and Civil Justice Reform (12988) E.O.s.
- The Civil Justice E.O. doesn't say much about preemption (it simply instructs agencies to be clear in their rules when they intend to preempt state and local law).
- While the Unfunded Mandates E.O. establishes a presumption against unfunded mandates and encourages regulatory waivers, the Reagan Federalism E.O. goes much further by:
 - instructing agencies to assess the justification and constitutional basis for actions impinging on states;
 - requiring in such cases a clear statement of constitutional authority and the necessity for national action;
 - establishing a presumption against uniform national standards and deference toward state standards and policies; and
 - interpreting statutes not to preempt state law unless they do so expressly.

Discussion & Recommendations

- At best, we can say that the Unfunded Mandates E.O. goes in the same general direction as the Reagan E.O., but it would be a stretch (at a minimum) to claim that it replaces the Reagan document.
- Elena and I concur that repealing the Reagan E.O. is probably not an option at this time, for many of the same reasons expressed with regard to the Family E.O. And as with the Family E.O., the GAO reporting process and/or GRO will probably force our hand; we will have to take some action. We believe that the best course of action is to explore ways in which agencies can comply with the requirements with minimal burden. Like the Family E.O., we can pay particular attention to the major rules which will be subject to GAO analysis.

E.O. 12630 -- Takings

Review (Linda Lance/OVP & Tom Jensen/CEQ)

- Linda and Tom have canvassed most of the relevant agencies (Army Corps, DOI, EPA, and DOJ) and the good news is that it appears they are making good faith efforts to comply with the E.O.'s requirements. Linda has more detailed information on each of the four agencies, but the bottom line is that the Army Corps appears to be the most active, having completed 400-500 TIAs since the E.O. took effect. DOI and EPA have done the fewest, about a half-dozen, but they have reviewed all their regulatory actions to determine if a takings analysis is appropriate.
- All of the agencies have guidelines for implementing the E.O., which were approved by the Bush Administration. The guidelines contain some differences in their assessment of when TIAs are required.
- The bad news is that CBO has requested from DOI and Army Corps copies of TIAs as well as the names and numbers of field attorneys who prepare them. The purpose of the request is not yet clear.

Discussion & Recommendations

- Tom, Linda, and I agree that rescinding the E.O. would not be appropriate at this time, both because of the campaign and because agencies appear to be complying with a minimum of burden.
- The far thornier issue is how to deal with the CBO request (which may not be so sinister), and the anticipated requests from GAO (as SBREFA appears to require that these TIAs be provided to GAO for every rule, and

nary a one has probably gone up, or is likely to unless agencies are so instructed), or even McIntosh and Government Reform and Oversight (probably sinister).

- All those involved claim that the TIAs are protected by attorney-client privilege and are exempt (exception 5) from FOIA. At least one court has concurred on the privilege point. The problem, however, is that attorney-client arguments won't work (in the end) with Congress. Nor will FOIA exemption claims. And Bob Damus believes claims of executive privilege or "deliberative process" may be difficult to defend. My last conversation with Jack Quinn indicated he would agree with Bob (Elena confirms that WH Counsel would be wary of using these defenses).
- As a result, Tom, Linda, and I agree that the best course is to see if we, or the agencies independently, can work with Congress to develop a middle ground, where they could receive the data/information they require, without undermining what up to now has been a candid, and useful, takings analysis process.

cc: Kumiki Gibson
Linda Lance
Elena Kagan
Paul Weinstein
Jeremy Ben-Ami
Tom Jensen
Jeff Hill