NLWJC - KAGAN

EMAILS RECEIVED

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[06/16/1999-06/17/1999]

Withdrawal/Redaction Sheet
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Michael Waldman to Elena Kagan re Good Job [partial] (1 page)	06/17/1999	P6/b(6)
002. email	Jonathan Kaplan to Elena Kagan re nomination [partial] (1 page)	06/17/1999	P6/b(6)
003. email	Edward Hughes to Elena Kagan re nomination [partial] (1 page)	06/17/1999	P6/b(6)
004. email	Ron Klain to Elena Kagan re no subject (1 page)	06/17/1999	Personal Misfile
005. email	Michael Waldman to Elena Kagan re Good Job (1 page)	06/17/1999	P6/b(6)
006. email	Christopher Edley to Elena Kagan re Congratulations (1 page)	06/17/1999	P6/b(6)

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

FOLDER TITLE:
[06/16/1999-06/17/1999]

2009-1006-F
kc170

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]

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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 (NOTES MAIL)

CREATOR: Peter Rundlet (CN=Peter Rundlet/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:16-JUN-1999 14:03:19.00

SUBJECT: Latest version of Cureton summary. -Forwarded

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:
Attached below is the latest version of the disputed portion of the brief. Once you hit "view" you can skip down to point 3, beginning with "We do not take a position on the merits issues [sic] raised in this appeal. . . . "

Please let me know if there are objections or suggested revisions to this section. Thank you.
---------- Forwarded by Peter Rundlet/WHO/EOP on 06/16/99 02:00 PM ----------

Anita Hodgkiss <Anita.Hodgkiss@usdoj.gov>
06/16/99 12:41:00 PM
Record Type: Record

To: Peter Rundlet/WHO/EOP
cc:
Subject: Latest version of Cureton summary. -Forwarded

Attached is where we seem to be now on the crucial paragraphs.

Date: 06/15/1999 06:07 pm (Tuesday)
Subject: Latest version of Cureton summary.

- cure_i&s.wpd

========== ATTACHMENT 1 ==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D51]ARMS290350573.136 to ASCII,
The following is a HEX DUMP:

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:16-JUN-1999 04:25:16.00

SUBJECT: NGLTF Action Alert: Religious Liberties Protection Act

TO: Maureen T. Shea (CN=Maureen T. Shea/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Deborah B. Mohile (CN=Deborah B. Mohile/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Edward W. Correia (CN=Edward W. Correia/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
---------- Forwarded by Richard Socarides/WHO/EOP on 06/16/99 04:22 AM ----------

Doug.Case @ sdsu.edu
06/15/99 12:35:00 PM
Record Type: Record

To: Richard Socarides
cc:
Subject: NGLTF Action Alert: Religious Liberties Protection Act

!!!!!!ALERT ALERT!!!!!!!!

NGLTF ACTION ALERT----------

The Religious Liberties Protection Act is being marked up in the full Judiciary Committee in the House This morning at AT 10 am. Rep. Nadler is offering an amendment that would limit the use of RLPA as a defense against civil rights laws to small employers (5 employees or less) and relatively small budgets
(500,000). While not perfect, this is an important and strong limitation on the damage that RLPA could do to civil rights. Please call your members of Congress who are on the Judiciary Committee and tell them to vote FOR the Nadler amendment and if it doesn't pass, to vote AGAINST final passage of the whole legislation.

The bill, the Religious Liberties Protection Act (RLPA), is promoted by a broadly based coalition of religious organizations who are concerned that recent Supreme Court decisions have jeopardized religious freedom. The bill would simply reinstate the balance that has long existed between government's ability to pass laws of general application and the rights of citizens to require that the government show a compelling reason for any

law that threatens to burden an individual's religious freedom.

In a critical development, the Texas legislature has passed and Governor Bush has signed, a state RLPA with a complete exemption for civil rights laws so that it cannot be used to circumvent civil rights protections. This is extremely important for two reasons. First, the religious coalition supporting the national legislation, including many of our colleagues such as People for the American Way and others, has argued against any exemption as politically unviable. Clearly that is not true. Second, Rep. Canady's staff has reportedly put out a letter stating that RLPA is now needed at the national level to undercut the Texas legislation and that this legislation in Texas is a big victory for homosexual activists!

Please contact Representatives even if they are generally good on our issues. You can call the Capitol Switchboard at (202) 224-3121 and they will transfer you to your Representative.

DEMS-

JOHN CONYERS JR. 14TH-MI
BARNEY FRANK, 4TH-MA
HOWARD BERMAN, 26TH-CA
RICK BOUCHER, 9TH-VA
JERROLD NADLER, 8TH, NY
BOBBY SCOTT, 3RD, VA
MEL WATT, 12TH-NC
ZOE LOFGREN, 16TH-CA
SHEILA JACKSON LEE, 18TH-TX
MAXINE WATERS, 35TH-CA
MARTY MEEHAN, 5TH-MA
WILLIAM DELAHUNT, 10TH-MA
ROBERT WEXLER, 19TH-FL
STEVEN ROTHMAN, 9TH-NJ
TAMMY BALDWIN, 2ND-WI
ANTHONY DAVID WEINER, 9TH-NY

If you have a Republican Representative who you think would be persuadable, please call. For a complete list of Judiary Republicans go to, www.house.gov/judiciary.

****
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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard L. Siewert (CN=Richard L. Siewert/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:16-JUN-1999 09:22:41.00

SUBJECT: Guns

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

TEXT:
pretty good story --- we would like to get the letter to Brady supporters out by noon while our press corps in Paris is still working. After 6 or so, they'll disappear into the Parisian night.

Clinton Lobbies for Gun Control

WASHINGTON (AP) -- The White House today accused House Republicans of trying to stymie gun restrictions while cutting money for new police officers, saying they are ``making the case for less cops and more guns.''

President Clinton, traveling in Europe, also tried to shore up support for gun-control legislation among wavering Democrats.

Clinton called two Democrats, Reps. Nicholas Lampson of Texas and Bob Etheridge of North Carolina, from Air Force One en route to Geneva, where he addressed the International Labor Organization, said White House spokesman Joe Lockhart. He said Clinton planned to call other Democrats.

``The president fully recognizes the political nature of this kind of vote,'' the spokesman said. ``He believes that these are sensible measures that the public demands, but he also remembers quite clearly'' that Democrats have ``suffered'' because of past gun votes.

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``the public is

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Missouri, to

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Democrats may

Democrats,

Republicans may

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the

``But I think the president believes that the

on these issues and it's important that people

spokesman said.

Lockhart said the ``very pervasive influence''

Rifle Association over the past few weeks has

Senate-passed restrictions and opened new

In calls to lawmakers, Clinton will tell them

expecting them to do the people's business and

NRA's,'' Lockhart said.

He also took aim at Republican leaders for

funding for Clinton's program to allow local

more officers.

``You have a situation where the Republican

making the case for less cops and more guns and

Democratic leadership is making the case for

less guns,'' Lockhart said.

``I think that's a powerful message that needs

as we move toward the vote.''

Clinton's effort to hold Democrats in line

House's top Democrat, Rep. Dick Gephardt of

persuade two senior Democrats not to join

sponsoring an NRA-backed gun proposal.

The NRA's chief lobbyist believes 40 to 50

support the proposal backed by one of the senior

Rep. John Dingell of Michigan, and 15 to 20

support a White House-backed version that

Senate, with more undecided.

Dingell's proposal contains a provision on gun

background checks that is less restrictive than

Senate-passed measure.

House Democratic leaders have seized on the issue in the wake of the Colorado school shootings in April, believing it can help the party win control of the House in 2000.

□#AP-NY-06-16-99 0840EDT

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COLLECTION:

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Automated Records Management System (Email)
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[06/16/1999-06/17/1999]

2009-1006-F
kc170

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001

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 16:23:34.00

P6/(b)(6)

From: Julia M. Payne on 06/17/99 04:22:06 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Sarah Wilson/WHO/EOP@EOP
Subject: President Clinton nominates three to Federal Bench

THE WHITE HOUSE

Office of the Press Secretary
(Cologne, Germany)

For Immediate
Release
June 17, 1999

PRESIDENT CLINTON NOMINATES MARYANNE TRUMP BARRY, JAMES E. DUFFY, JR., AND ELENA KAGAN TO THE FEDERAL BENCH

The President today nominated Maryanne Trump Barry to the U.S. Court of Appeals for the Third Circuit (New Jersey), James E. Duffy, Jr. to the U.S. Court of Appeals for the Ninth Circuit (Hawaii), and Elena Kagan to the U.S. Court of Appeals for the District of Columbia Circuit.

Judge Maryanne Trump Barry, of Sparta, New Jersey, has been a United States District Judge for the District of New Jersey since 1983. She received her B.A. in 1958 from Mount Holyoke College, her M.A. in 1962 from Columbia University, and her J.D. in 1974 from Hofstra University School of Law. Prior to her appointment as a U.S. District Judge in 1983, Barry had worked for nine years in the Office of the U.S. Attorney in New Jersey, serving in a variety of capacities including: Assistant U.S. Attorney (1974-75), Deputy Chief of the Appeals Division (1976-77), Chief of the Appeals Division (1977-82), Executive Assistant U.S. Attorney (1981-82), and First Assistant U.S. Attorney (1981-83). As a U.S. District Judge, Barry served as the Chair of the Criminal Law Committee of the Judicial Conference (1994-96).

James E. Duffy, Jr., of Honolulu, Hawaii, has been a partner in the Honolulu law firm of Fujiyama, Duffy and Fujiyama since 1975. Although born and educated on the mainland, Duffy has been a litigator in Hawaii for his entire legal career. He received his B.A. from the College

of St. Thomas and his J.D. from Marquette University Law School in 1968. Upon graduation from law school, Duffy moved to Hawaii and entered private practice, first as an associate at Cobb and Gould (1968-71), then as an associate at Chuck and Fujiyama (1972-74). Duffy has been a partner at Fujiyama, Duffy and Fujiyama for almost 25 years.

Elena Kagan, of the District of Columbia, will be a Visiting Professor at Harvard Law School beginning in July 1999. She received a B.A. summa cum laude from Princeton University (1981), a M. Phil. from Oxford University (1983), and a J.D. magna cum laude from Harvard Law School (1986). Following law school, she clerked on the U.S. Court of Appeals for the D.C. Circuit for Judge Abner Mikva (1986-87) and on the U.S. Supreme Court for Justice Thurgood Marshall (1987-88). Kagan was then an associate at Williams and Connolly (1989-91). She joined the faculty of the University of Chicago Law School as an assistant professor in 1991 and became a full professor with tenure in 1995. Kagan was Special Counsel to the Senate Judiciary Committee during the confirmation hearings of Ruth Bader Ginsburg (Summer 1993). She served as Associate Counsel to the President from 1995 to 1996 and Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council from 1997 to 1999. In addition, she has been a member of the Board of Governors of the Chicago Council of Lawyers and a public member of the Administrative Conference of the United States.

30-30-30

Message Sent
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Jonathan Kaplan to Elena Kagan re nomination [partial] (1 page)	06/17/1999	P6/b(6)

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

FOLDER TITLE:
[06/16/1999-06/17/1999]

2009-1006-F
kc170

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]

[002]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan A. Kaplan (CN=Jonathan A. Kaplan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-JUN-1999 17:39:57.00

P6/(b)(6)

From: Julia M. Payne on 06/17/99 04:22:06 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Sarah Wilson/WHO/EOP@EOP
Subject: President Clinton nominates three to Federal Bench

THE WHITE HOUSE

Office of the Press Secretary
(Cologne, Germany)

For Immediate
Release
June 17, 1999

PRESIDENT CLINTON NOMINATES MARYANNE TRUMP BARRY, JAMES E. DUFFY, JR., AND ELENA KAGAN TO THE FEDERAL BENCH

The President today nominated Maryanne Trump Barry to the U.S. Court of Appeals for the Third Circuit (New Jersey), James E. Duffy, Jr. to the U.S. Court of Appeals for the Ninth Circuit (Hawaii), and Elena Kagan to the U.S. Court of Appeals for the District of Columbia Circuit.

Judge Maryanne Trump Barry, of Sparta, New Jersey, has been a United States District Judge for the District of New Jersey since 1983. She received her B.A. in 1958 from Mount Holyoke College, her M.A. in 1962 from Columbia University, and her J.D. in 1974 from Hofstra University School of Law. Prior to her appointment as a U.S. District Judge in 1983, Barry had worked for nine years in the Office of the U.S. Attorney in New Jersey, serving in a variety of capacities including: Assistant U.S. Attorney (1974-75), Deputy Chief of the Appeals Division (1976-77), Chief of the Appeals Division (1977-82), Executive Assistant U.S. Attorney (1981-82), and First Assistant U.S. Attorney (1981-83). As a U.S. District Judge, Barry served as the Chair of the Criminal Law Committee of the Judicial Conference (1994-96).

James E. Duffy, Jr., of Honolulu, Hawaii, has been a partner in the Honolulu law firm of Fujiyama, Duffy and Fujiyama since 1975. Although born and educated on the mainland, Duffy has been a litigator in

Hawaii for his entire legal career. He received his B.A. from the College of St. Thomas and his J.D. from Marquette University Law School in 1968. Upon graduation from law school, Duffy moved to Hawaii and entered private practice, first as an associate at Cobb and Gould (1968-71), then as an associate at Chuck and Fujiyama (1972-74). Duffy has been a partner at Fujiyama, Duffy and Fujiyama for almost 25 years.

Elena Kagan, of the District of Columbia, will be a Visiting Professor at Harvard Law School beginning in July 1999. She received a B.A. summa cum laude from Princeton University (1981), a M. Phil. from Oxford University (1983), and a J.D. magna cum laude from Harvard Law School (1986). Following law school, she clerked on the U.S. Court of Appeals for the D.C. Circuit for Judge Abner Mikva (1986-87) and on the U.S. Supreme Court for Justice Thurgood Marshall (1987-88). Kagan was then an associate at Williams and Connolly (1989-91). She joined the faculty of the University of Chicago Law School as an assistant professor in 1991 and became a full professor with tenure in 1995. Kagan was Special Counsel to the Senate Judiciary Committee during the confirmation hearings of Ruth Bader Ginsburg (Summer 1993). She served as Associate Counsel to the President from 1995 to 1996 and Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council from 1997 to 1999. In addition, she has been a member of the Board of Governors of the Chicago Council of Lawyers and a public member of the Administrative Conference of the United States.

30-30-30

Message Sent
To:

Denver R. Peacock/WHO/EOP@EOP
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WOZNIAK_N@A1 @ CD @ LNGTWY
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backup@wilson.ai.mit.edu @ inet
newsdesk@usnewswire.com @ inet
usia01@access.digex.com @ inet
usnwire@access.digex.com @ inet
GRAY_W@A1 @ CD @ LNGTWY
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Mark J. Bernstein/WHO/EOP@EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-JUN-1999 12:34:29.00

SUBJECT: Weekly Strategy Meeting

TO: Emma_Harrell@ed.gov@inet (Emma_Harrell@ed.gov@inet [UNKNOWN])
READ:UNKNOWN

TO: Vicky_Stroud@ed.gov@inet (Vicky_Stroud@ed.gov@inet [UNKNOWN])
READ:UNKNOWN

TO: Jonathan M. Young (CN=Jonathan M. Young/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Mary E. Cahill (CN=Mary E. Cahill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Shirley S. Sagawa (CN=Shirley S. Sagawa/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Lisa M. Towne (CN=Lisa M. Towne/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN

TO: Broderick Johnson (CN=Broderick Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Mike_Cohen@ed.gov@inet (Mike_Cohen@ed.gov@inet [UNKNOWN])
READ:UNKNOWN

TO: Paul D. Glastris (CN=Paul D. Glastris/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Barry J. Toiv (CN=Barry J. Toiv/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Peter Rundlet (CN=Peter Rundlet/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Janet Murguia (CN=Janet Murguia/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Barbara Chow (CN=Barbara Chow/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

CC: MaryEllen C. McGuire (CN=MaryEllen C. McGuire/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Jason H. Schechter (CN=Jason H. Schechter/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Jennifer E. McGee (CN=Jennifer E. McGee/OU=OMB/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

CC: Joseph D. Ratner (CN=Joseph D. Ratner/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Mindy E. Myers (CN=Mindy E. Myers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
Due to scheduling conflicts, the Education Strategy Meeting for today at 5:15 p.m. is CANCELLED.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-JUN-1999 12:18:09.00

SUBJECT: this may weaken the surprise element -- on the record too

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
---------- Forwarded by Mary L. Smith/OPD/EOP on 06/17/99 12:17 PM ----------

Kris M Balderston
06/17/99 12:09:04 PM
Record Type: Record

To: Mary L. Smith/OPD/EOP@EOP
cc:
Subject: this may weaken the surprise element -- on the record too

fyi
---------- Forwarded by Kris M Balderston/WHO/EOP on 06/17/99 12:09 PM ----------

Richard L. Siewert
06/17/99 11:30:26 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: this may weaken the surprise element -- on the record too

Bald Eagle Is Off Endangered List

By H. JOSEF HEBERT Associated Press Writer

WASHINGTON (AP) --The Clinton administration has decided to remove the bald eagle from the Endangered Species list, concluding that the national bird has fully recovered, Interior department officials said today.

began its
in 1972. The
mortality.

at a point where
John Wright said.

of not being
a ceremony
at the White
completed. It's still
President Al
spokesman,

of bald eagles
in the late
``endangered'' to

marked the
an eagle
immediately
although he

The eagle was near extinction in the 1960s and recovery after the banning of the pesticide DDT chemical had been a primary source of eagle

``We're going to take the bird off. The eagle is it's made a full recovery,'' Interior spokesman

Administration sources, who spoke on condition further identified, said there are plans to have marking the national bird's recovery on July 4 House, although details have not yet been not known whether President Clinton or Vice Gore, the administration's leading environmental will take part.

There are believed to be more than 4,500 pairs in existence today, compared to fewer than 450 1960s. The bird was reclassified from ``threatened'' several years ago.

At the time, Interior Secretary Bruce Babitt occasion at a refuge outside Washington, where named Freedom was released. Ironically, the bird was attacked by an osprey and was injured, recovered.

Message Sent
To:
John Podesta/WHO/EOP@EOP
Kris M Balderston/WHO/EOP@EOP
Loretta M. Ucelli/WHO/EOP@EOP
Joel Johnson/WHO/EOP@EOP
Julia M. Payne/WHO/EOP@EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-JUN-1999 14:34:29.00

SUBJECT: update from yesterday's mtg with Education Dept.

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
(From Bethany,Tanya, and Jon)

A few points were raised at the meeting with the Education Dept and OMB that we wanted to share with you.

1) Mike Smith is testifying on Direct Student Loans today, and there is some concern that a recent IG report on financial management of the program will be raised by members on the committee. Specifically, the IG found that people had been avoiding paying their student loans by claiming to be dead or disabled, but were in fact alive and healthy. Education has created a policy "effective immediately" that will require proof (such as a death certificate) before forgiving student debt.

2) Class Size/School Construction: We are still exploring a potential event around the release of the Class Size money at the end of June/beginning of July, however Education staff indicated that they are hearing concern on the hill from Democrats who are not sure we are committed to passing the School Construction bill and maintaining the separate funding stream for the Class-Size program. They are strongly pushing us to lock in an event early so that members and education groups could organize events around the country that day. They also think that the event could combine an emphasis on class size and school construction in order to demonstrate commitment to both.

3) teacher quality/class size. A mark-up could take place next week or the week after. The bill to be marked up will likely contain the provisions permitting class size funding to be used for other purposes.

4) Civil Rights Hearing: As you know, Hoekstra has asked Norma Cantu to testify before the Oversight committee next week. The issues that will probably come up include the Louisiana charter schools/desegregation problems, the controversial high-stakes testing guidance that leaked to the press, and enforcement of Title IX.

5) Budget: Credible rumors are circulating that the Senate Appropriations Subcommittee may markup our education budget proposal before the 4th of Jukly recess. The Department is very concerned that using some financial tricks (similar to ones we have used to a lesser extent) they may be able to present what would appear to be a decent education budget. They would

like us to consider getting the message out about the effects the allocations and cuts would have on education, and think about ways to address the issue if they succeed in creating a credible (on the surface) budget proposal.

6) The Education Department is now planning to release the social promotions guide on June 28, at an event with Riley and Arlene Ackerman, at the beginning of DC's summer school session. Is this OK with you?

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Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Edward Hughes to Elena Kagan re nomination [partial] (1 page)	06/17/1999	P6/b(6)

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

FOLDER TITLE:
[06/16/1999-06/17/1999]

2009-1006-F
kc170

RESTRICTION CODES

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

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

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[003]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Edward F. Hughes (CN=Edward F. Hughes/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 16:31:53.00

P6/(b)(6)

From: Julia M. Payne on 06/17/99 04:22:06 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Sarah Wilson/WHO/EOP@EOP
Subject: President Clinton nominates three to Federal Bench

THE WHITE HOUSE

Office of the Press Secretary
(Cologne, Germany)

For Immediate
Release
June 17, 1999

PRESIDENT CLINTON NOMINATES MARYANNE TRUMP BARRY, JAMES E. DUFFY, JR., AND ELENA KAGAN TO THE FEDERAL BENCH

The President today nominated Maryanne Trump Barry to the U.S. Court of Appeals for the Third Circuit (New Jersey), James E. Duffy, Jr. to the U.S. Court of Appeals for the Ninth Circuit (Hawaii), and Elena Kagan to the U.S. Court of Appeals for the District of Columbia Circuit.

Judge Maryanne Trump Barry, of Sparta, New Jersey, has been a United States District Judge for the District of New Jersey since 1983. She received her B.A. in 1958 from Mount Holyoke College, her M.A. in 1962 from Columbia University, and her J.D. in 1974 from Hofstra University School of Law. Prior to her appointment as a U.S. District Judge in 1983, Barry had worked for nine years in the Office of the U.S. Attorney in New Jersey, serving in a variety of capacities including: Assistant U.S. Attorney (1974-75), Deputy Chief of the Appeals Division (1976-77), Chief of the Appeals Division (1977-82), Executive Assistant U.S. Attorney (1981-82), and First Assistant U.S. Attorney (1981-83). As a U.S. District Judge, Barry served as the Chair of the Criminal Law Committee of the Judicial Conference (1994-96).

James E. Duffy, Jr., of Honolulu, Hawaii, has been a partner in the Honolulu law firm of Fujiyama, Duffy and Fujiyama since 1975. Although born and educated on the mainland, Duffy has been a litigator in

Hawaii for his entire legal career. He received his B.A. from the College of St. Thomas and his J.D. from Marquette University Law School in 1968. Upon graduation from law school, Duffy moved to Hawaii and entered private practice, first as an associate at Cobb and Gould (1968-71), then as an associate at Chuck and Fujiyama (1972-74). Duffy has been a partner at Fujiyama, Duffy and Fujiyama for almost 25 years.

Elena Kagan, of the District of Columbia, will be a Visiting Professor at Harvard Law School beginning in July 1999. She received a B.A. summa cum laude from Princeton University (1981), a M. Phil. from Oxford University (1983), and a J.D. magna cum laude from Harvard Law School (1986). Following law school, she clerked on the U.S. Court of Appeals for the D.C. Circuit for Judge Abner Mikva (1986-87) and on the U.S. Supreme Court for Justice Thurgood Marshall (1987-88). Kagan was then an associate at Williams and Connolly (1989-91). She joined the faculty of the University of Chicago Law School as an assistant professor in 1991 and became a full professor with tenure in 1995. Kagan was Special Counsel to the Senate Judiciary Committee during the confirmation hearings of Ruth Bader Ginsburg (Summer 1993). She served as Associate Counsel to the President from 1995 to 1996 and Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council from 1997 to 1999. In addition, she has been a member of the Board of Governors of the Chicago Council of Lawyers and a public member of the Administrative Conference of the United States.

30-30-30

Message Sent
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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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]

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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 (NOTES MAIL)

CREATOR: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-JUN-1999 16:31:43.00

SUBJECT: Re: update from yesterday's mtg with Education Dept.

TO: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
---------- Forwarded by Bruce N. Reed/OPD/EOP on 06/17/99 04:31 PM ----------

Bruce N. Reed
06/17/99 04:31:09 PM
Record Type: Record

To: Jonathan H. Schnur/OPD/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: update from yesterday's mtg with Education Dept.

1. I'm OK with releasing the social promotions guide that way.
2. We'd be more likely to get a unified all-D class-size/school-con event if we could hold the money back until July 12th or so. There is no good Potus window except the July 3rd radio address.

Jonathan H. Schnur
06/17/99 02:34:16 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Elena Kagan/OPD/EOP@EOP
cc: Tanya E. Martin/OPD/EOP@EOP, Bethany Little/OPD/EOP@EOP
Subject: update from yesterday's mtg with Education Dept.

(From Bethany,Tanya, and Jon)

A few points were raised at the meeting with the Education Dept and OMB that we wanted to share with you.

1) Mike Smith is testifying on Direct Student Loans today, and there is some concern that a recent IG report on financial management of the program will be raised by members on the committee. Specifically, the IG found that people had been avoiding paying their student loans by claiming to be dead or disabled, but were in fact alive and healthy. Education has

created a policy "effective immediately" that will require proof (such as a death certificate) before forgiving student debt.

2) Class Size/School Construction: We are still exploring a potential event around the release of the Class Size money at the end of June/beginning of July, however Education staff indicated that they are hearing concern on the hill from Democrats who are not sure we are committed to passing the School Construction bill and maintaining the separate funding stream for the Class-Size program. They are strongly pushing us to lock in an event early so that members and education groups could organize events around the country that day. They also think that the event could combine an emphasis on class size and school construction in order to demonstrate commitment to both.

3) teacher quality/class size. A mark-up could take place next week or the week after. The bill to be marked up will likely contain the provisions permitting class size funding to be used for other purposes.

4) Civil Rights Hearing: As you know, Hoekstra has asked Norma Cantu to testify before the Oversight committee next week. The issues that will probably come up include the Louisiana charter schools/desegregation problems, the controversial high-stakes testing guidance that leaked to the press, and enforcement of Title IX.

5) Budget: Credible rumors are circulating that the Senate Appropriations Subcommittee may markup our education budget proposal before the 4th of Jukly recess. The Department is very concerned that using some financial tricks (similar to ones we have used to a lesser extent) they may be able to present what would appear to be a decent education budget. They would like us to consider getting the message out about the effects the allocations and cuts would have on education, and think about ways to address the issue if they succeed in creating a credible (on the surface) budget proposal.

6) The Education Department is now planning to release the social promotions guide on June 28, at an event with Riley and Arlene Ackerman, at the beginning of DC's summer school session. Is this OK with you?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Peter Rundlet (CN=Peter Rundlet/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 19:09:35.00

SUBJECT: FW: Latest Draft of Testimony for Oversight Hearing

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:
Attached below is the latest draft of Norma Cantu's proposed written testimony for Thursday. I have not yet read it yet. The formal written testimony must be submitted to the Committee by Monday morning. In the actual hearing, Hoekstra has asked her to limit her verbal testimony to five minutes. Please let me know what additions or changes you would suggest. Thank you.

---------- Forwarded by Peter Rundlet/WHO/EOP on 06/17/99 06:37 PM ----------

"Bowers, Susan" <Susan_Bowers@ed.gov>
06/17/99 06:19:41 PM
Record Type: Record

To: Peter Rundlet/WHO/EOP
cc:
Subject: FW: Latest Draft of Testimony for Oversight Hearing

> -----Original Message-----
> From: Bowers, Susan
> Sent: Thursday, June 17, 1999 6:18 PM
> To: Winnick, Steve; Coleman, Arthur; Pierce, Raymond; Cantu, Norma V;
> Dorka, Lilian; Rairdin, Kae; Fleming, Scott; Lewis, Cathy H; Lim,
> Jeanette; 'Peter_Rundlet@oa..eop.gov'
> Subject: FW: Latest Draft of Testimony for Oversight Hearing
> Importance: High
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> Subject: Latest Draft of Testimony

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==========ATTACHMENT 1==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
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The following is a HEX DUMP:

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DEPARTMENT OF EDUCATION

Statement by

Norma V. Cantú

Assistant Secretary for Civil Rights

Automated Records Management System
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Mr. Chairman and Members of the Committee:

Thank you for inviting me to appear before you today and providing the opportunity to describe how the Office for Civil Rights furthers the mission of the Department of Education: To ensure equal access to education and promote educational excellence throughout the nation. Before I address the specific questions you asked, I would like to explain how OCR does business and how our new way of doing business provides flexibility and maintains educational soundness.

INTRODUCTION

The Office for Civil Rights' mission, which is fully aligned with that of the Department, is to ensure equal access to a high quality education for all students through the enforcement of civil rights. OCR is responsible for enforcing five federal civil rights statutes that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age. OCR carries out its enforcement responsibilities by resolving the approximately 5,000 complaints we receive each year and monitoring resolution agreements to ensure that they are fully implemented. We also provide flexibility to states by building collaborations with state and local education agencies, and creating partnerships with parents, students, and other stakeholders to prevent civil rights problems and to stop illegal discrimination.

There is wide consensus that excellence in education is the critical issue facing the nation. We know that to retain our strength in the new world economy we must focus on high academic standards for all our children. Devoting significant resources to programs that strengthen high-performance education is critical, but it would be a devastating waste of human capital if all of our nation's students are not permitted to benefit from these reform efforts. To accomplish our national educational goals, excellence and equity must go hand-in-hand.

To ensure equal access to high-quality education for every student, OCR works with schools, colleges, and parent and community groups to achieve common goals. We believe that OCR has made a real difference in the lives of students and can count millions of students whose educational lives have been improved as a result of OCR's work.

OCR has three objectives: 1) work with school districts, colleges, and universities to eliminate discriminatory educational practices; 2) empower parents and students to learn to resolve problems of securing equal access to quality education; and 3) obtain results by the efficient management of civil rights compliance activities. We incorporate these objectives and hold ourselves accountable for how we do business in four ways.

First, OCR has improved the educational experience for increasing numbers of students. In fiscal year 1998, we had a positive impact on the educational experiences of nearly 6 million students. We have achieved much of this impact through collaborative efforts with states and state systems of education. For example, the Office for Civil Rights and the

Commonwealth of Pennsylvania entered into a partnership agreement to increase access to higher education opportunities in Pennsylvania. The commitments developed by the partnership promise a high level of support by all components within the Pennsylvania education system for efforts to expand higher education opportunities for minority students in Pennsylvania. We anticipate that the successful implementation of these commitments will be effective in expanding access to higher education, in revitalizing our country's oldest historically black university, Cheyney University, and in increasing the retention and graduation of minority students in Pennsylvania, consistent with the goals of our partnership. The president of Cheyney has stated that the partnership is "a perfect fit for the direction Cheyney needs to go to fulfill its vision for the future." (*Philadelphia Inquirer,* June 4, 1999)

Another example of successful collaboration is our work over the past several years with the Michigan Department of Education (MDE.) MDE and OCR have worked collaboratively to resolve compliance issues identified within Michigan regarding educational services to limited-English proficient (LEP) students. Some of the excellent partnership results include: an English-as-a-Second Language (ESL) endorsement for certified teachers where no such endorsement was available previously; a plan to increase the number of qualified teachers providing instruction to LEP students; as well as collection of data by MDE from school districts regarding LEP student's academic performance and access to core content, and information about programs designed to teach LEP students English. In addition, relative to MDE's school assessment and improvement programs, MDE will disaggregate the results for LEP students and will promote appropriate responses to the needs of LEP students based on those results. These

activities will have an impact on approximately 50,000 LEP students in Michigan.

In another proactive effort, OCR worked with the California Community College System to help students with visual impairments. It is important to note that California has the nation's largest community college system in the nation, serving more than one million students. Yet, students who were visually impaired were denied access to print materials and computer-based information that was essential to their coursework. OCR, through its work with administrators of these 110 community colleges, improved access to necessary educational information for thousands of already-enrolled visually impaired students.

Each success story — whether it is providing library and computer materials to visually impaired students in state-wide community college system comprising 110 separate colleges — or moving an African American child out of the regular curriculum and into the gifted and talented courses appropriate for him or her --- validates our work.

Secondly, we have worked to ensure that recipients (school districts, colleges and universities, state education agencies) change policies, procedures, or practices to comply with federal civil rights law. Through collaboration and partnership, we have been able to facilitate understanding of civil rights obligations, bring change, and hopefully deter discrimination. We believe that these changes result in fewer "copy cat" complaints being filed. The civil rights laws enforced by OCR cover the nation's public schools, colleges and universities, proprietary organizations, and public

libraries, museums and vocational rehabilitation agencies. In fiscal year 1998, approximately 1000 school districts, 22 state education agencies, 233 post-secondary institutions and 2 state systems of higher education changed their policies or practices consistent with the advice provided by OCR. These changes will yield access to educational benefits for a countless number of students.

Thirdly, we measure the number of successful partnerships with parents that lead to civil rights compliance. If we are to succeed in ensuring access to high standards and excellence for all students, we must find proactive and innovative ways for involving and empowering parents. One such example of successful partnership with parents is a proactive effort, initiated by OCR's New York office, to empower the parents of the 1.1 million students enrolled in New York Board of Education Schools. In FY 1999, the New York office began a partnership with several parent groups to provide training forums and workshops for parents throughout New York City. Events focus on underserved communities in a special effort to reach minority and LEP parents. OCR provided critical information about special education rights, minority students and special education, and English language learners and special education. Simultaneous translation equipment was used, which greatly facilitated communication with the approximately one-third of the parents who spoke Spanish. Meetings also were held with various advocacy groups in order to share information regarding the resolution agreements and memoranda of understanding between OCR and the Board and their impact on parents.

During the past four years, the Chicago Office has been engaged in an initiative designed to improve the effectiveness of OCR reviews focusing on language services for LEP students and thus enable these students to gain access to a high quality education. The initiative is premised on the belief that parental involvement is essential to achieving lasting positive changes within a school district.

OCR's traditional approach is to obtain a school district's written agreement to remedy any compliance problems identified during case resolution and then to monitor the district's compliance with the agreement over a specified period of time. Active involvement of parents concerned about their children's education can ensure that the positive actions implemented by a school district continue once OCR is no longer involved.

Finally, we are prompt. Eighty percent of complaints are resolved within 180 days of receipt by OCR. Even in the face of an increasing caseload and increased monitoring, we are meeting this goal.

In fact, GAO recently issued a Report Letter analyzing our complaint work. The report, titled "Resolving Discrimination Complaints Has Improved With New Processing System," is attached at the end of this testimony at Tab A. The GAO found that OCR has improved its complaint resolution process in two major ways. First, it replaced a process that investigated complaints with a more flexible system that focuses on resolving complaints as soon as possible. Also, OCR's hierarchical structure for investigating complaints was replaced with case resolution teams. Second, OCR improved or created several systems to provide its staff with

information needed to conduct and report on complaint investigations. For example, OCR has established internal networks around specific issue areas. The issue networks serve as an organizational bridge between OCR staff who are doing the same job and encountering the same questions across the country. The issue networks provide a forum for building knowledge and expertise around each issue area. They also serve to identify best practices, refine our case resolution tools and approaches, ensure consistency in applying legal standards and most importantly, the result is increased access to quality education for students. In addition, we have also focused on improving existing processes to maximize efficiency and effectiveness. For example, OCR has put increased emphasis and focus on the monitoring of resolution agreement. Our most well crafted resolution agreements will do little good unless we monitor their implementation to ensure that students in fact have received educational benefits. The GAO report concludes: "During the fiscal year 1993-1997 period, OCR showed improvement in three principal performance indicators: the time to process a complaint, the number of complaints processed annually, and average backlog of unprocessed complaints at year end."

There is no doubt that our internal culture, our fundamental approach to case resolution, has changed. We realize we cannot prevent and eliminate discrimination on our own. We must work with a variety of stakeholders to accomplish our mission - to prevent as well as to correct violations of the law. OCR places high emphasis on collaboration to achieve results that Cooperation and communication among people with mutual interests – students, parents, community groups, state education agencies, and schools and colleges -- is the key to our continued success. It is because of this

emphasis on collaboration that OCR has been so effective in obtaining voluntary resolution agreements to correct violations without having to resort to the ultimate remedy of fund termination.

Preventing discrimination from ever happening can only be accomplished by providing educators, parents and students with information about their legal obligations and rights. Technical assistance is provided by both OCR's enforcement offices and headquarters staff, which includes a customer service team operating as the first point of contact through its 800-telephone line. OCR also serves the public through its web page.

QUESTIONS PRESENTED

I appreciate the opportunity to address your questions regarding educational testing, gender equity in intercollegiate athletics, and meaningful access to educational opportunity for LEP students. Our policy guidance, compliance activities, and collaborative efforts in these three areas exemplify the aspects of partnership and collaboration that I mentioned earlier in my testimony. In addition, our work in these three areas illustrates how OCR's efforts are not only consistent with, but also serve to advance the broader educational policies of the Administration, Congress, and the states, as well as the wishes and hopes of our nation's parents and students.

I. Educational Testing

OCR's approach to educational testing is derived from existing statutory authority and, like the Administration's policy, is consistent with broader educational policies.

OCR recognizes that tests are critical components of educational strategies designed to promote excellence for all students. OCR's resolutions of claims of discrimination recognize most clearly that the solution to concerns regarding discrimination is not to eliminate the very tools that help provide a meaningful picture of the educational opportunities provided to students. Rather, OCR's approach is to provide guidance to policy makers and educators to ensure that tests are used in ways that are consistent with the civil rights laws. That is, that they are used in ways that provide valid and reliable information and are consistent with their design and purpose.

The improper use of a high-stakes test can violate civil rights laws that prohibit discrimination against students on the basis of their race, national origin, sex or disability. When tests are used to make educational decisions, they should be used to measure students' abilities, knowledge, or qualifications regardless of race, national origin, sex or disability.

As this Administration encourages more states and districts to adopt accountability systems which include on assessments to improve the performance of students and promote high standards, OCR's has the increased responsibility to help states and districts avoid legal problems. Accordingly, OCR 's draft Testing Resource Guide was developed in response to a need for guidance, especially at the elementary and secondary level. The draft guide is designed to combine, in one document, a description of existing legal and test measurement principles to assist policy makers and educators in making important decisions about when and how to use tests for making educational decisions that have significant

consequences for students. As the draft Testing Resource Guide points out, test use cannot be examined in a vacuum. In addressing the issue of whether a test has been used in a discriminatory manner, the draft Testing Resource Guide describes long-standing law and education practices relevant to the classification of students and the provision of benefits or services is at issue. The foundations for OCR's approach in addressing discriminatory use of educational tests as illustrated most recently in the draft Testing Resource Guide, is that legal standards must be informed by both professional psychometric standards as well as sound educational judgement.

OCR has developed a process for obtaining wide input on the draft Testing Resource Guide. We have consulted with over thirty teacher, administrator, policy maker, business, advocacy, and test publisher organizations to solicit input on the draft Testing Resource Guide. Once the draft Resource Guide has been refined in light of their comments, OCR will recirculate the draft Resource Guide to those same groups just prior to our submission of the document to the National Academy of Sciences Board on Testing and Assessment, for their final review. Thereafter, we anticipate making a draft available to the public for review.

OCR's legal approach to discriminatory use of educational tests is consistent with the broader objectives of educational reform. Educational reform recognizes that all students need an educational system that both expects high performance and offers real and meaningful educational opportunities. Nondiscrimination in testing and assessment is essential to ensuring that equal opportunities for educational excellence are provided regardless of race, national origin, sex, or disability.

The effect of OCR's activities in the area of educational testing is to ensure real educational benefits for real students.

OCR has investigated many cases that allege discrimination in the use of tests. At times, our resolutions have focused on states' obligations to ensure that all students are provided the instruction necessary to meet a high-stakes test, such as a statewide proficiency test. In those cases, our agreements have required states to use their accountability systems to ensure that school districts provide the instruction necessary, including remedial or summer school programs, to give all students the opportunity to meet the statewide standards. For example, OCR and the state of Texas have been working together to resolve a complaint alleging that the use of the Texas Assessment of Academic Skills (TAAS) was discriminatory on the basis of race and national origin. Our case resolution in Texas maintained the use of the TAAS. The agreement focuses on the State's efforts to provide appropriate interventions and instruction in order to improve the passage rates of minority students on the TAAS.

Our case resolutions have focused also on the use of an IQ test as the sole criterion or gatekeeper for access into gifted and talented programs but where the test was not intended by experts to be used in such a way. In those instances, OCR worked with states, districts and schools to find additional methods for identifying gifted students, such as portfolios of work, grade point averages, teacher recommendations, and achievement test data, while ensuring that the rigorous nature of the underlying program was left intact.

II. Gender Equity in Intercollegiate Athletics

OCR's policy on gender equity in intercollegiate athletics is derived from existing statutory authority and is consistent with the broader education policies of the Administration.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex in education programs receiving federal financial assistance. Athletics are considered an integral part of an institution's program and are therefore specifically covered by OCR's regulations implementing Title IX. In order to clarify the athletic requirements contained in the Title IX regulation, a Policy Interpretation was issued in 1979 to provide colleges and universities with more guidance on how to comply with the law. Although the Policy Interpretation was written specifically for intercollegiate athletics, its general principles will often apply to club, intramural, and interscholastic athletic programs.

Several years ago, I convened a number of focus groups to discuss discrimination in athletics, and in January 16, 1996, I issued a detailed guidance document on the subject of equitable participation opportunities, entitled "Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test" (The Clarification). This Clarification addresses the interpretation of what is commonly referred to as the "three-part test." This test, as described in the Department's 1979 Athletic Policy Interpretation, is used to determine whether students of both sexes are provided nondiscriminatory opportunities to participate in athletics. The Clarification makes clear that no quotas would be permitted. Further, we emphasize that

there are three separate avenues whereby a school may comply with the requirement to provide nondiscriminatory participation opportunities for individuals of both sexes. A college or school may comply by meeting any of the three avenues: 1) substantial proportionality; 2) a history and continuing practice of program expansion; or, 3) full and effective accommodation of interests and abilities. This compliance standard is part of a larger analytical framework discussed in the 1979 Policy Interpretation, which has received the bipartisan support of Congress over the years. Finally, OCR encouraged colleges to avoid cutting of men's sports as a means for coming into compliance with the participation test.

In July 1998, OCR issued two letters that discussed and clarified the 1979 Policy Interpretation as it relates to the funding of athletic scholarships for men's and women's intercollegiate athletic programs. The letters, intended for all schools that award scholarships in intercollegiate athletics programs, clarify how scholarship dollars must be awarded to men's and women's athletic programs in "substantially equal amounts," proportionate to the participation rate of male and female athletes. Wide dissemination of these letters and posting them on OCR's website will help ensure that intercollegiate athletic scholarships are awarded with an understanding of the requirements and will promote fairer distribution of scholarship funds.

During the 1996-97 academic year, more than 329,000 student-athletes (200,627 men and 128,209 women) participated in intercollegiate athletics at National Collegiate Athletic Association institutions. According to NCAA's own data, this figure represents the highest number of total student/athletes ever.

More than 25 years after the passage of Title IX, women college athletes receive fewer athletic opportunities and support from their institutions. Although men athletes represent about 60% of the student-athletes nationwide, they receive more than 76% of college sports operating budgets, more than 82% of college recruiting money, and about 72% of athletic scholarships. Women athletes annually receive about $180 million less than men athletes in scholarship money.

It is indisputable that athletic opportunities also represent opportunities for access to higher education. Access to higher education is a priority of this Administration. Therefore, increasing access to higher educational opportunities for more of America's students, men and women, by eliminating gender discrimination in intercollegiate athletics, is certainly consistent with the Administration's goals and policies.

<u>The effect of OCR's activities in the area of gender equity in intercollegiate athletics is to yield real education benefits for real students.</u>

OCR's compliance efforts in this area have certainly yielded positive results with respect to access to educational benefits for all students, regardless of sex. For example, OCR entered into an agreement with a large midwestern university that resulted in the university's decision to elevate three of its existing women's club teams to the intercollegiate level. Upon full implementation of the resolution agreement, the university will have increased the number of women participating in its intercollegiate athletics

program by as much as 40% without cutting any men's teams. This type of resolution is consistent with Title IX, which does not require the elimination of teams but rather requires equal opportunity.

OCR resolutions of cases alleging gender discrimination in the award of athletic financial assistance also have yielded positive results that will increase access to educational opportunities for hundreds of students. In fact, in 16 out of the 25 complaints filed by the National Women's Law Center this past year, OCR has obtained resolution agreements that will result in hundreds of thousands of scholarship dollars being made available for women athletes who previously have been denied those monetary benefits.

III. Meaningful Access to Educational Opportunity for Limited-English Proficient (LEP) Students

You have requested information about OCR's policy relative to "bilingual education." Pursuant to Title VI of the Civil Rights Act, OCR has jurisdiction over issues involving access to educational opportunities for language minority LEP students. OCR does not, however, enforce any law, regulation or policy that specifically requires, prohibits or encourages the use of bilingual education programs. As I explain later in my response to your questions, bilingual education is one of several programs a school district could chose to implement to fulfill its obligation under Title VI.

OCR Policy Guidance on Access to Educational Opportunity for LEP Students is derived from existing statutory authority and, like the broader

education policies of the Administration, is consistent with sound educational practice.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color or national origin. In *Lau v. Nichols*, the Supreme Court affirmed the Department of Education Memorandum of May 25, 1970, that directed school districts to take steps to help LEP students overcome language barriers and to ensure that they can participate meaningfully in the district's educational programs.

Neither Title VI nor OCR requires or advocates a particular program of instruction for LEP students. However, federal law does require that programs to educate children with limited English proficiency be: based on sound educational theory; adequately supported so that the program has a realistic chance of success (with adequate and effective staff and resources); and periodically evaluated and revised, if necessary. These requirements are set forth in long-standing OCR policy which is based on the analytical framework formulated by the Fifth Circuit in the landmark case of *Castaneda v. Pickard*. Both the *Lau* and *Castaneda* cases support OCR policy that provides schools districts with flexibility in selecting educational program models that meet Title VI obligations.

Other areas addressed by OCR policy[1] include investigative guidance for determining whether a school district is meeting its Title VI obligation to:

[1] OCR policy regarding LEP students are reflected in three documents: The May 1970 memorandum to school districts, "Identification of Discrimination and Denial of Services on the Basis of National Origin;" the December 3, 1985

identify and evaluate students who may be in need of English language services; to monitor and appropriately address the needs of those students relative to whether they are in fact learning English as well as how they are performing academically; ensure that qualified teachers and appropriate resources are being provided to support the success of the program model it has chosen; and exit students from the alternative language program once they are proficient enough in English to participate meaningfully in the regular program. In addition, where the district has chosen to temporarily emphasize language instruction over academic instruction, districts must follow up to ensure that students are provided with compensatory and supplemental education to address the deficiencies in other content areas that may have occurred during this period. All of these areas of compliance with Title VI as identified in OCR policy documents are informed by longstanding Federal case law.

OCR policy on access to educational opportunity for LEP students is consistent with sound education policies. OCR policy requires that districts provide LEP students meaningful access to the educational program, including district programs that emphasize high standards. OCR policy, clearly supported by Federal case law, provides great flexibility to districts regarding how they will fulfill that obligation. The Administration's broader educational policy is in fact to support innovative and high quality

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guidance document, "The Office for Civil Rights' Title VI Language Minority Compliance Procedures;" and the September 1991 memorandum, "Policy Update on Schools' Obligations Toward National Origin Minority Students with Limited-English Proficiency (LEP)."

educational programs designed to raise academic standards so that *all* of our nation's students may reach their fullest potential and be equipped to meet the global economic and social challenges of the next millennium.

The effect of OCR policy and compliance efforts on the issue of access to educational opportunity for LEP students ensures real educational benefits for real students.

What are the consequences when schools do not provide LEP students with services to address their lack of proficiency in English? They are consequences we cannot afford as a nation: exclusion of LEP students from the educational program; repeated failure in the classroom, falling behind in grade, and dropping out of school; inappropriate placement of LEP students in special education classes; as well as, foreclosed access to high track courses, gifted and talented programs and finally, exclusion from our national high standards education reform efforts.

OCR's work in this area has had a profound impact on millions of student's ability to access a meaningful education. For example, in 1993 OCR initiated a compliance review of the Farmington Public Schools in Michigan regarding whether the district was providing access to meaningful participation in the district's educational program to limited English proficient students. As a result of the review, the District developed a plan to promote equity and excellence in the District's education program for LEP students. The implementation of the agreement has increased the English language proficiency of LEP students and LEP students have made significant academic gains. In fact, LEP students are beginning to close the

gap between their overall performance and the performance of non-LEP students.

Another example of the positive effects of OCR policy and compliance efforts are the results accomplished through our work with the Adams County School District #50 in Colorado. To meet its Title VI obligations, the District selected a program that is structured to focus on increasing English language proficiency. The program encompasses the core content curriculum and has allowed LEP students to participate and progress in the District's educational program. Because of our collaborative efforts with the district, LEP students are closing the gap between their overall performance and the performance of non-LEP students. Former LEP students raised their academic performance as a result of OCR's assistance, whether the measure of success consists of standardized test results, or improved graduation rates, or reduced drop out rates. Most promising, the graduation rate for former LEP students was 100% -- truly a remarkable achievement.

CONCLUSION

Thank you for the opportunity to share with you information about OCR's efforts to provide equal access to educational opportunity for all students. I would be pleased to respond to any questions you may have.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 17:37:10.00

SUBJECT: Congratulations

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
Elena

Congratulations on your nomination. You're the best. I hope things go well at your confirmation hearings.

Ben

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005. email	Michael Waldman to Elena Kagan re Good Job (1 page)	06/17/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[06/16/1999-06/17/1999]

2009-1006-F
kc170

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 (NOTES MAIL)

CREATOR: Todd A. Summers (CN=Todd A. Summers/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-JUN-1999 18:08:23.00

SUBJECT: Thanks

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
Just a quick note of thanks for all of your support of our work. I'm leaving for Russia tomorrow and won't be at the farewell but did want to extend my heartfelt best wishes. Cathy says you're off to Harvard (teaching at Law or Kennedy?) - like all good politicals on the cusp of an election, I'm filling out my Kennedy School application. So perhaps I will see you there!

Best regards,

Todd

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 09:20:56.00

SUBJECT: AG-press conf.

TO: Joel Johnson (CN=Joel Johnson/OU=WHO/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
In response to your Q about the AG doing press. If we want them to do it we need to tell them accdg to DOJ.
---------- Forwarded by Kris M Balderston/WHO/EOP on 06/17/99 09:19 AM ----------

Setti D. Warren
06/17/99 09:17:33 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: AG-press conf.

The AG will not be back in Washington until 2pm today. There is no planned press conf., but they are looking for guidance from us today on what we would like them to do.

Message Sent
To:
Loretta M. Ucelli/WHO/EOP@EOP
Stephanie A. Cutter/WHO/EOP@EOP
Richard L. Siewert/WHO/EOP@EOP
Jose Cerda III/OPD/EOP@EOP
Kris M Balderston/WHO/EOP@EOP
Thurgood Marshall Jr/WHO/EOP@EOP
Leanne A. Shimabukuro/OPD/EOP@EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sean P. Maloney (CN=Sean P. Maloney/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 13:56:28.00

SUBJECT: Daily Reports

TO: Joel Johnson (CN=Joel Johnson/OU=WHO/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Janet L. Yellen (CN=Janet L. Yellen/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

TO: Loretta M. Ucelli (CN=Loretta M. Ucelli/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Gene B. Sperling (CN=Gene B. Sperling/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Minyon Moore (CN=Minyon Moore/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Ann F. Lewis (CN=Ann F. Lewis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Ron Klain (CN=Ron Klain/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

TO: Mickey Ibarra (CN=Mickey Ibarra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Mary E. Cahill (CN=Mary E. Cahill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Glyn T. Davies (CN=Glyn T. Davies/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

TO: Jacob J. Lew (CN=Jacob J. Lew/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Sylvia M. Mathews (CN=Sylvia M. Mathews/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Stephanie S. Streett (CN=Stephanie S. Streett/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

TO: Lawrence J. Stein (CN=Lawrence J. Stein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Bob J. Nash (CN=Bob J. Nash/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Thurgood Marshall Jr (CN=Thurgood Marshall Jr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Neal Lane (CN=Neal Lane/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN

TO: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: George T. Frampton (CN=George T. Frampton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

TO: Sidney Blumenthal (CN=Sidney Blumenthal/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: KERRICK_D@A1 (KERRICK_D@A1 @ CD @ VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Ann C. Hertelendy (CN=Ann C. Hertelendy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Barbara A. Barclay (CN=Barbara A. Barclay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Edward A. Rice (CN=Edward A. Rice/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

CC: Leslie Bernstein (CN=Leslie Bernstein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Lael Brainard (CN=Lael Brainard/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Nina L. Hachigian (CN=Nina L. Hachigian/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

CC: Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Justin L. Coleman (CN=Justin L. Coleman/OU=WHO/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

CC: Courtney M. Manning (CN=Courtney M. Manning/OU=WHO/O=EOP@EOP [UNKNOWN])

READ:UNKNOWN

CC: Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Marjorie Tarmey (CN=Marjorie Tarmey/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Rebecca L. Walldorff (CN=Rebecca L. Walldorff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Mindy E. Myers (CN=Mindy E. Myers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Sara M. Latham (CN=Sara M. Latham/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:
A friendly reminder . . . John has asked for daily report submissions by 3:00 p.m. Please email them to me asap with a cc: to Barbara Barclay. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sean P. Maloney (CN=Sean P. Maloney/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 09:42:12.00

SUBJECT: Daily Reports

TO: Joel Johnson (CN=Joel Johnson/OU=WHO/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Janet L. Yellen (CN=Janet L. Yellen/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

TO: Loretta M. Ucelli (CN=Loretta M. Ucelli/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Gene B. Sperling (CN=Gene B. Sperling/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Minyon Moore (CN=Minyon Moore/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Ann F. Lewis (CN=Ann F. Lewis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Ron Klain (CN=Ron Klain/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

TO: Mickey Ibarra (CN=Mickey Ibarra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Mary E. Cahill (CN=Mary E. Cahill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Glyn T. Davies (CN=Glyn T. Davies/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

TO: Jacob J. Lew (CN=Jacob J. Lew/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Sylvia M. Mathews (CN=Sylvia M. Mathews/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Stephanie S. Streett (CN=Stephanie S. Streett/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

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TO: KERRICK_D@A1 (KERRICK_D@A1 @ CD @ VAXGTWY [UNKNOWN]) (NSC)
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TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP@EOP [WHO])
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CC: Ann C. Hertelendy (CN=Ann C. Hertelendy/OU=WHO/O=EOP@EOP [WHO])
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CC: Barbara A. Barclay (CN=Barbara A. Barclay/OU=WHO/O=EOP@EOP [WHO])
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CC: Leslie Bernstein (CN=Leslie Bernstein/OU=WHO/O=EOP@EOP [WHO])
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CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [WHO])
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CC: Courtney M. Manning (CN=Courtney M. Manning/OU=WHO/O=EOP@EOP [UNKNOWN])

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CC: Sara M. Latham (CN=Sara M. Latham/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:
We'll be preparing a daily report for the President again today. Please email bullet points (just simple paragraphs, please, no separate memos or formatting; a Word attachment is best) to Barbara Barclay with a cc: to me, by 3:00 p.m. Thanks.

Withdrawal/Redaction Marker
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. email	Christopher Edley to Elena Kagan re Congratulations (1 page)	06/17/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[06/16/1999-06/17/1999]

2009-1006-F
kc170

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]

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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]
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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 (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-JUN-1999 12:24:25.00

SUBJECT: Summer Policy Announcements

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Paul J. Weinstein Jr. (CN=Paul J. Weinstein Jr./OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
Attached is a draft compilation of possible policy announcements for this summer. I am still waiting for a few more ideas to come in. Communications was also interested in anything on: 1)the AIDS report and 2) the National Campaign to Prevent Youth Violence.

FYI -- Paul thought the FAA announcement should probably be a paper statement.

Let me know if you have any revisions, or would like me to explore other options.

Thanks

kk==========ATTACHMENT 1 ==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D62]ARMS22458167W.136 to ASCII,
The following is a HEX DUMP:

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Automated Records Management System
Hex-Dump Conversion

June 17, 1999

MEMORANDUM TO BRUCE REED
ELENA KAGAN

FROM: DPC STAFF

SUBJECT: POSSIBLE SUMMER POLICY ANNOUNCEMENTS

CHILDREN AND FAMILIES

1. **New Adoption Numbers** (July?) The President (and First Lady) could announce the significant increases in adoptions since 1996. We will also be able to announce the awarding of the financial bonuses to states for their adoption increases.

2. **Introduction of Legislation to Prohibit Discrimination Against Parents** (July) The President proposed new federal legislation to protect parents from discrimination in the workplace. Building on state law in Alaska, Michigan, New Jersey, and others, this legislation would protect workers from unfair assumptions about their commitment to their job that can affect hiring, advancement and other employment decisions. While this law would clearly not prohibit employers from making hiring and promotion decision on the basis of job performance, it would ensure that workers are not unfairly discriminated against simply because they are parents. *NOTE: This could be done around National Parents' Day, created in 1995 by the President, which takes place the fourth Sunday in July (July 25, 1999).*

EDUCATION

1. **Class Size Reduction Grants** (July 1) These grants will help school districts hire 100,000 teachers over 7 years to reduce class size in grades 1-3 to a nationwide average of 18. Applications for grants were received from very state and funds will be awarded to states beginning July 1.

2. **Teacher Quality Enhancement Grants** (July 16) The President could announce grants that 1) fund systematic change to state teacher licensure policies and practices; 2) funds projects to promote comprehensive and lasting change to teacher preparation programs; and 3) help recruit and prepare excellent teachers for America's classrooms.

WELFARE/EMPLOYMENT

1. **Food Stamp Regulations** (June-July) Announce new Food Stamp regulations to improve access for working families. NOTE: USDA is planning on notifying states of their annual quality control error rates on June 30. The food stamp package could be ready for announcement by then, and some of the initiatives could placate state's concerns over the QC errors.

2. **Welfare to Work Partnership Convention, Chicago, IL** (August 2-4) Address the Welfare to Work Partnership convention in Chicago on August 3rd, which will include several thousand businesses and service providers from dozens of cities. The President could announce $200 million in high performance bonuses for states that have done the best job placing welfare recipients in jobs and ensuring they succeed in those jobs. He could also release the second report to Congress on welfare reform, including 1998 work participation rates and the first full year of data on welfare reform implementation. If caseload reductions continue at current pace, the President should be able to announce that the President has cut welfare rolls in half since he took office. This event could serve to mark the third anniversary of the welfare reform law (8/22/96) and the 2nd anniversary of the Welfare-to-Work program (8/5/97). In addition, the first Individual Development Account grants to help low income families build assets should be ready to announce.

POLICY PLANNING

1. **Food Safety Event.** (July) We can urge Congress to pass funds for our food safety initiative, support Harkin's bill to give USDA recall authority for tainted food, and announce a new rule regulating eggs to prevent salmonella. The FDA rule now at OMB (and its USDA companion already completed and set to go into effect in August) will require eggs to be kept at 40 degrees and put warning labels to consumers on each carton. There are at least 800,000 cases of salmonella a year and eggs are the leading culprits. They project a median savings of $700 million in reduced health care costs (OMB analysis includes a range of $87 million to $6 billion). The cost of the rule to companies is $60 million the first year, $10 million a year afterwards. USDA also has a reinventing government rule clearing OMB to move from a regulatory approach on sanitation of meat and poultry plants to a performance setting standard method which companies will like and shows we are interested in flexible means of achieving goals.

2. **Homeless Report.** (late July/early August) We could announce the results of the National Survey of Homeless Assistance Providers and Clients, which is the first-ever comprehensive survey of both clients and providers of homeless programs funded by the federal government. Representatives of 11,909 programs out of an estimated 40,000 nationwide were interviewed, and 4,207 people who use the programs were interviewed. The survey will show that 15 percent of the homeless respondents have one or more children under the age of 18 with

them; that 28 percent of respondents say they sometimes or often do not get enough to eat, compared to 12 percent of poor Americans; and 38 percent report alcohol use problems, 26 percent drug use problems, and 39 percent mental health problems, and 66 percent report one or more of these problems. The report does not estimate the total number of homeless persons. The announcement of the survey could be combined with another push for our FY2000 budget for HUD, which includes $1.125 billion for homeless assistance. If enacted, the $1.125 billion will be the largest ever appropriation to HUD for homeless assistance.

3. **Aggressive Driving Report.** The National Highway Traffic Safety Administration will publish a report suggesting ways to reduce aggressive driving. (Since everyone from Transportation is at a retreat, will get more details tomorrow).

4. **Federal Aviation Administration is Y2K compliant.** The FAA will be ready to announce that it is Y2K compliant as of June 30.

Automated Records Management System
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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-JUN-1999 10:21:23.00

SUBJECT: POTUS op-ed

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
The NSC asked all of the agencies that have been working on the G-8 to draft potential op-eds on the themes that the President will strike this weekend. As you know, education will be a topic in the Summit Communique and the Leaders will also issue a Charter on Education/Lifelong Learning. Since we, along with the British, wrote most of the education sections, they track pretty well with our domestic agenda.

Mike Smith's staff drafted the attached op-ed connecting the G-8 education discussion with ESEA and the President's domestic education agenda. It places our push for standards, accountability, and smaller classes in the context of how other countries are responding to the information-driven global economy.

If the WH is not interested in placing this op-ed, the Department will consider revising it and trying to place it in Riley's name. In either case, I will be giving them comments on this draft.

Should I forward this to Loretta/Communications?

- POTUS G-8 op-ed.doc

========== ATTACHMENT 1 ==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D50]ARMS228458574.136 to ASCII,
The following is a HEX DUMP:

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Minyon Moore (CN=Minyon Moore/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 17:35:59.00

SUBJECT: President Clinton nominates three to Federal Bench

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
you are my hero!
---------- Forwarded by Minyon Moore/WHO/EOP on 06/17/99 05:33 PM ----------

From: Julia M. Payne on 06/17/99 04:22:06 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Sarah Wilson/WHO/EOP@EOP
Subject: President Clinton nominates three to Federal Bench

THE WHITE HOUSE

Office of the Press Secretary
(Cologne, Germany)

For Immediate
Release
June 17, 1999

PRESIDENT CLINTON NOMINATES MARYANNE TRUMP BARRY, JAMES E. DUFFY, JR., AND ELENA KAGAN TO THE FEDERAL BENCH

The President today nominated Maryanne Trump Barry to the U.S. Court of Appeals for the Third Circuit (New Jersey), James E. Duffy, Jr. to the U.S. Court of Appeals for the Ninth Circuit (Hawaii), and Elena Kagan to the U.S. Court of Appeals for the District of Columbia Circuit.

Judge Maryanne Trump Barry, of Sparta, New Jersey, has been a United States District Judge for the District of New Jersey since 1983. She received her B.A. in 1958 from Mount Holyoke College, her M.A. in 1962 from Columbia University, and her J.D. in 1974 from Hofstra University School of Law. Prior to her appointment as a U.S. District Judge in 1983, Barry had worked for nine years in the Office of the U.S. Attorney in New Jersey, serving in a variety of capacities including: Assistant U.S. Attorney (1974-75), Deputy Chief of the Appeals Division (1976-77), Chief of the Appeals Division (1977-82), Executive Assistant U.S. Attorney (1981-82), and First Assistant U.S. Attorney (1981-83). As a U.S. District Judge, Barry served as the Chair of the Criminal Law Committee of the Judicial Conference (1994-96).

James E. Duffy, Jr., of Honolulu, Hawaii, has been a partner in the Honolulu law firm of Fujiyama, Duffy and Fujiyama since 1975. Although born and educated on the mainland, Duffy has been a litigator in

Hawaii for his entire legal career. He received his B.A. from the College of St. Thomas and his J.D. from Marquette University Law School in 1968. Upon graduation from law school, Duffy moved to Hawaii and entered private practice, first as an associate at Cobb and Gould (1968-71), then as an associate at Chuck and Fujiyama (1972-74). Duffy has been a partner at Fujiyama, Duffy and Fujiyama for almost 25 years.

Elena Kagan, of the District of Columbia, will be a Visiting Professor at Harvard Law School beginning in July 1999. She received a B.A. summa cum laude from Princeton University (1981), a M. Phil. from Oxford University (1983), and a J.D. magna cum laude from Harvard Law School (1986). Following law school, she clerked on the U.S. Court of Appeals for the D.C. Circuit for Judge Abner Mikva (1986-87) and on the U.S. Supreme Court for Justice Thurgood Marshall (1987-88). Kagan was then an associate at Williams and Connolly (1989-91). She joined the faculty of the University of Chicago Law School as an assistant professor in 1991 and became a full professor with tenure in 1995. Kagan was Special Counsel to the Senate Judiciary Committee during the confirmation hearings of Ruth Bader Ginsburg (Summer 1993). She served as Associate Counsel to the President from 1995 to 1996 and Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council from 1997 to 1999. In addition, she has been a member of the Board of Governors of the Chicago Council of Lawyers and a public member of the Administrative Conference of the United States.

30-30-30

Message Sent
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