

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 001 - FOLDER 009

[3/7/1997 - 3/12/1997]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Paul J. Weinstein Jr. Subject: Re: Justice Positions Steve is interested in: (1 page)	03/11/1997	P6/b(6)
002. email	Elena Kagan to Paul J. Weinstein Jr. Subject: Re: Justice Positions Steve is interested in: (1 page)	03/11/1997	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[03/07/1997 - 03/12/1997]

2009-1006-F

wr5

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: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 12:19:44.00

SUBJECT: Re: Welfare Outreach Plan

TO: Lyn A. Hogan (CN=Lyn A. Hogan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

eeeks. my fault. Bruce wanted to hold onto it until eli's memo came in and then it fell between the cracks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 12:14:35.00

SUBJECT: Re: Biomaterials

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

TEXT:
yes, I'd love to.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 12:18:42.00

SUBJECT: Re: cos breakfast

TO: Ronda H. Jackson (CN=Ronda H. Jackson/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
yes, that's fine.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 15:46:42.00

SUBJECT: Re: Plans

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

TEXT:

I'm glad too. And thanks for the offer -- which you may regret. Have a good weekend if I don't see you.

March 7, 1997

MEMORANDUM FOR ALL HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

Since I signed the historic welfare reform law, I have urged businesses, non-profit organizations, and religious groups across the nation to help make its promise of opportunity real by offering jobs to welfare recipients. We are making great progress, but there is more to do. And today, I take action to ensure that the federal government, as the nation's largest employer, contributes to the greatest extent possible to this national effort.

I therefore direct each of you, as head of an agency or department, to use all available hiring authorities, consistent with statute and prior executive memoranda, to hire people off the welfare rolls into available job positions in the government.

In particular, I direct you to expand the use of the Worker-Trainee Program and other excepted service hiring authorities. The Worker-Trainee Program allows agencies to quickly and easily hire entry-level persons for up to three years, with the ability to convert the appointment to career status if the employee has performed satisfactorily. Though recently underutilized, the program allows agencies to bypass complex federal personnel hiring rules and procedures to bring people into the most junior grades of the workforce.

I further direct you, in recognition of the different characteristics of the various agencies' workforces, to prepare an individualized plan for hiring welfare recipients and to submit that plan to me within 30 days. This plan should have three principal components:

- The plan should contain a survey indicating in which divisions and for which particular positions your agency can most easily hire welfare recipients.
- The plan should describe in detail how the agency intends to recruit and hire qualified welfare recipients. This description should include a proposed local outreach program, building upon the government's existing nationwide employment information systems, to bring federal job opportunities to the attention of welfare offices, state and private employment offices, nonprofit organizations, and others that work with welfare recipients on a regular basis.
- The plan should describe in detail how the agency will ensure that welfare recipients, once hired, perform well enough to keep their jobs. The agency should include in this aspect of the plan proposals for on-the-job training and/or mentoring programs.

I expect each agency head to report to me about his or her plan at a special cabinet meeting called for that purpose. Following this meeting, I also expect monthly reports on implementation.

To ensure deep and continuing involvement in this issue by the White House, I ask the Vice President to take on the project of overseeing this effort. Based on his expertise in federal

workplace issues, he will assist all agencies in carrying out their commitments.

Finally, I direct appropriate agencies to take three steps that will assist all low-income federal employees, whether or not former welfare recipients.

- I direct each agency head to notify all employees eligible for the Earned Income Tax Credit (EITC) of both their eligibility and their ability to receive EITC monies each month in their paychecks. Currently, not all agencies inform qualifying employees of their eligibility and options for payment.
- I direct the General Services Administration (GSA) to issue within 30 days guidelines regarding use of the Federal Fare Subsidy Program, including the option to offer fare subsidies based on the employee's income. This option, which agencies may not now realize they have, will enable more agencies to participate in the Fare Subsidy Program.
- I direct the GSA, after consultation with all federal agencies, to report back to me within 30 days on plans to assist low-income federal workers in finding affordable child care. This report shall include information on agency-sponsored child care centers and agency contracts with local child care resource and referral services, as well as recommendations on any appropriate expansion of these arrangements to provide assistance to low-income federal workers.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 12:16:52.00

SUBJECT: Re: Looping Kitty in to Meeting re: Labor Dept

TO: Elizabeth M. Toohy (CN=Elizabeth M. Toohy/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

you bet.

March 7, 1997

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*Automated Records Management System
Hex-Dump Conversion*

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 12:18:19.00

SUBJECT: Re: Ad Council

TO: Carol_Rasco (Carol_Rasco @ ed.gov @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

TEXT:
you bet.

March 7, 1997

MEMORANDUM FOR ALL HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 15:01:45.00

SUBJECT: Re: I have conveyed to HHS that they better draft work language re: bifucation

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

nope.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 13:57:29.00

SUBJECT: Re: Women's office wants a copy of the draft OPM directive

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ: UNKNOWN

TEXT:
NOOOOOO.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 12:12:46.00

SUBJECT: Re:

TO: Lyn A. Hogan (CN=Lyn A. Hogan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

yes, please on the TP and Q&A. You should check in with Doug Walker from OPM. They're supposed to be sending stuff over by 2:00. I'll make the child care change. We NEED the transportation piece. Do I need to make a call?

Lyn A. Hogan
03/07/97 10:54:18 AM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: Re:

Looks great! You managed to turn my three clunky pages into one.

On the child care, if we can, I'd lead with the resource and referral services. Both Faith Wohl and Joan Lombardi told me that the Federal child care centers are really too expensive for many low-income people and building new Federal centers is also too expensive.

They both think agencies really underuse the resource and referral agencies and that they are the cost-effective waive of the future.

I'm STILL waiting on Eric Dodds at GSA for a definitive answer on the transportation piece. .501-1104 if you want to call.

Next steps: As I said, I'm collecting fact sheets.stats to answer questions. Do you want me to drfat the usual talking points and Q&A for press?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 12:17:50.00

SUBJECT: Re: staff mtg

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

TEXT:
of course. no problem.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 15:01:26.00

SUBJECT: Re: I have conveyed to HHS that they better draft work language re: bifucation

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

nope.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 12:15:49.00

SUBJECT: Biomaterials

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

TEXT:

The bruce here is lindsey. we used to do this issue together from the
counsel's office. Have you worked it from this end?

----- Forwarded by Elena Kagan/OPD/EOP on 03/07/97 12:16
PM -----

Jennifer D. Dudley
03/07/97 11:55:59 AM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: Biomaterials

Bruce is holding a biomaterials meeting with some folks that Scott
Pastrick asked him to see. Bruce wonders if you still have an interest in
this issue and want to join him at the meeting.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 7-MAR-1997 13:45:52.00

SUBJECT: Re: Biomaterials

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

TEXT:
how many people?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 8-MAR-1997 13:05:30.00

SUBJECT: fax number

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

TEXT:
65557. sorry not to have gotten back to you sooner.

March 8, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: ELENA KAGAN

SUBJECT: MONDAY UNION MEETING

John Podesta met with Gerry Shea this afternoon about the agenda for Monday morning's union meeting. The unions want to talk about a number of health and welfare issues: (1) proposed cuts in the Medicaid disproportionate share program; (2) the application of worker protection laws -- particularly the minimum wage -- to welfare recipients participating in workfare programs; and (3) state proposals to privatize the administration of federal public assistance programs; and (4) our welfare-to-work plan. It is possible that the unions also will raise our Medicaid per capita cap proposal.

We will fax you materials on all these subjects tomorrow afternoon. In the meantime, I am attaching a memo Bruce and I prepared for the Vice President a few weeks ago on the minimum wage and privatization issues. Not that much has changed since then, and the memo should help to give you some background.

February 17, 1997

MEMORANDUM FOR THE VICE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: LABOR ISSUES IN WELFARE REFORM

You may be asked at the AFL-CIO meeting about two welfare reform implementation issues of importance to the labor movement. This memorandum provides you with some background on these issues, which the Administration is now in the process of resolving. Two q&a, which reflect a consensus view on how to address these issues, are attached to this memo. We recommend that you not discuss these issues unless asked to do so.

1. Application of worker protection laws to working welfare recipients

As the work requirements of the new welfare law begin to go into effect, a critical question for both the labor movement and the states is whether worker protection laws -- particularly the minimum wage law (Fair Labor Standards Act) -- protect welfare recipients who take part in workfare or subsidized employment programs. The DPC and OMB have been running an interagency process (involving DOL, HHS, USDA, and others) to hammer out an answer to this question. We expect to have a detailed recommendation for the President within the next few weeks, as well as a strategy for rolling out this controversial Administration policy.

There is general agreement among the agencies, as a matter of both law and policy, that the Fair Labor Standards Act should be read to require payment of at least the minimum wage to most people in workfare and wage supplementation programs. On this reading, participants in such programs would count as "employees" under the Act, thus qualifying for minimum wage protection -- except for a few who would count as "trainees" instead. Bruce has given the AFL private assurances that the Administration will adopt this basic position.

Requiring the minimum wage for workfare recipients, however, will raise obvious difficulties for the states, in light of the new welfare law's work provisions. Even if a recipient is working only 20 hours each week, the existing welfare grant in many states will fall short of a minimum wage salary. As the work requirement in the law increases to 25 and then to 30 hours, and as the minimum wage also increases, more and more states will discover that their welfare grants are insufficient.

One way to mitigate this new burden on the states is to count benefits other than cash assistance toward the minimum wage. There is a very strong legal argument, based on

provisions in the food stamp law, that states may add the value of food stamps to the basic welfare grant for purposes of complying with the minimum wage. Even if both these streams of benefits are counted, however, a number of Southern states will immediately come up short, and as the minimum wage increases and the work requirements become more severe, other states will join them over time. Allowing states to count the value of other benefits -- child care, housing, or transportation -- toward the minimum wage would remove this problem, but this proposal raises a number of legal and policy questions. DPC and OMB are currently working through these and similar issues with the affected agencies in an effort to apply the minimum wage law to working welfare recipients without imposing large new costs on states.

The interagency group also is reviewing what other labor protections apply to welfare recipients in workfare or subsidized employment programs. The consensus view is that OSHA, unemployment insurance, and anti-discrimination laws will apply in the same way they do for other workers. We have yet to get a firm opinion from Treasury as to whether the monies paid to these welfare recipients will be subject to FICA and other taxes, as well as eligible for the EITC, but we believe they will not. Finally, these workers may well become eligible to unionize. Recent newspaper articles have suggested that some unions will undertake large-scale organizing efforts targeting welfare recipients, and we probably should expect some of these efforts to succeed.

Recommendation: As the President has agreed, you should not raise the minimum wage issue at the AFL meeting. Announcing a position favorable to the unions in this context would make the decision look entirely political and increase the risk of a negative reaction from the governors and Congress. When asked about the issue, you should make a strong statement of principle that workers shouldn't be paid a subminimum wage, whether or not they come off the welfare rolls. But you should also be careful to note that the Administration is still in the process of developing its final positions on the complex issues arising from the intersection of the labor laws and the new welfare law.

2. Privatization of welfare functions

Another issue that may arise at the AFL meeting concerns efforts by some states to privatize their welfare operations. Texas has had a waiver request pending at HHS and USDA for months that would allow it to contract with private parties to do all eligibility determinations for food stamps and Medicaid. (The new welfare law specifically grants states the right to privatize TANF operations.) Wisconsin has a more limited waiver request pending. We probably have legal authority to grant such waivers.

This issue is of obvious importance for unions with large numbers of public sector employees, because a waiver means a loss of jobs for their members. As of now, however, the unions are not pressing us for a decision, perhaps because they expect us to allow at least some privatization. We have been getting pressure from Governors Bush and Thompson, but the interagency group is still not ready to make a recommendation.

March 8, 1997

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We will fax you materials on all these subjects tomorrow afternoon. In the meantime, I am attaching a memo Bruce and I prepared for the Vice President a few weeks ago on the minimum wage and privatization issues. It should help to give you some background.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 9-MAR-1997 11:59:06.00

SUBJECT: Re: Travel plans

TO: William R. Kincaid (CN=William R. Kincaid/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
no problem

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 12:10:19.00

SUBJECT: Re: partial birth

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

READ:UNKNOWN

TEXT:

sure

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:23:41.00

SUBJECT: Re: Stuff

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

TEXT:
by the by, where do you get this stuff from?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:36:03.00

SUBJECT: Re: merit systems language in medicaid legislation

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

TEXT:

It's nice to know Ken is talking with people about fuzzing up the language without telling us. I am going to respond that we want the language kept the same, unless you tell me not to do so.

----- Forwarded by Elena Kagan/OPD/EOP on 03/10/97 06:36 PM -----

From: Kenneth S. Apfel on 03/10/97 06:07:49 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Christopher C. Jennings/OPD/EOP
cc:
Subject: Re: merit systems language in medicaid legislation

Help! What should we do here?

----- Forwarded by Kenneth S. Apfel/OMB/EOP on 03/10/97 06:09 PM -----

Nancy A. Min
03/10/97 05:33:19 PM
Record Type: Record

To: Barry White/OMB/EOP
cc: See the distribution list at the bottom of this message
Subject: Re: merit systems language in medicaid legislation

Yes. Ken and I spoke late (c. 7:30 PM) about this, and agreed that the best solution would be to fuzz the language up. But that was before Chris Jennings had discussed it with Bruce Reed and the Chief of Staff. My current understanding is that we are instructed not to change the language. Of course, that can change within minutes. I will keep you posted.

Message Copied

To: _____
Margaret A. Murray/OMB/EOP
Kenneth S. Apfel/OMB/EOP
Sarah A. Bianchi/OMB/EOP
Barry T. Clendenin/OMB/EOP
Stacy L. Dean/OMB/EOP
Keith J. Fontenot/OMB/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:14:24.00

SUBJECT: Re: Welfare Reform

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

TEXT:

as you know, I'm coming to the chief of staff meeting tomorrow. Should we be doing anything else?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:24:45.00

SUBJECT: Re: Draft executive order on disability issues

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I'm not convinced.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:20:54.00

SUBJECT: Re: OPM Proposal

TO: Lyn A. Hogan (CN=Lyn A. Hogan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I don't have it on e-mail. The only person who has the latest draft of the press materials is Kathy McK because we changed a couple of things in the morning while speaking with her on the phone. If you get copies from her, I'd be grateful if you made me a set. And come by my office anytime and I'll see if I can fish out the directive.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:23:59.00

SUBJECT: Re: your phone

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

It's done! Many thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:30:40.00

SUBJECT: Re: welfare/states

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

READ:UNKNOWN

TEXT:

You bet. The President made this point very strongly in his speech to the Maryland legislature, but he can't repeat it too often.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:29:28.00

SUBJECT: Re: child labor issues

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

TEXT:

Maria Escheveste probably knows all about it from her days in the Labor Dept. (I believe this fell within her jurisdiction there.) Otherwise , I'll bet someone in Gene's shop tracks this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:48:22.00

SUBJECT: elephantine

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

READ:UNKNOWN

TEXT:

Look at today's ap story re the president's comments on hiring welfare recipients. absolutely amazing the way he remembers things.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:26:49.00

SUBJECT: Re: FYI from Bruce

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

TEXT:
sorry -- what was he responding to?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:32:59.00

SUBJECT: Re: OPM Directive

TO: Lyn A. Hogan (CN=Lyn A. Hogan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Thanks; I think I'll be fine for tomorrow. The directive, fyi, went through the standard OMB clearance process -- but extremely quickly!

March 10, 1997

MEMORANDUM FOR DON BAER

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: IDEAS

Health and Safety

Patients' Bill of Rights/Quality Commission: The counsel's office is almost done vetting our nominations for the Quality Commission, which will be charged with developing a Patients' Bill of Rights. Announcement of the Commission can be combined with the release of a HHS regulation that would guarantee an expedited appeal whenever a plan proposes to deny care that a Medicare patient believes is urgently needed.

Home Health Care: We have asked HHS to review several regulatory and legislative proposals on home health care. One legislative proposal, which will not be ready for at least several weeks, would require criminal background checks for home health providers participating in Medicare.

Medicare fraud legislation: We have finalized and are ready to announce a new and very good package of Medicare fraud and abuse initiatives. We can unveil this package during the President's trip to Florida -- or if it doesn't fit there, we can look for another opportunity to make the announcement.

Classified research with human subjects: In response to recommendations of the President's Advisory Committee on Human Radiation Experiments, we have prepared (1) an Executive Order strengthening protections for human subjects of secret research; and (2) legislation expanding compensation for Cold War-era uranium miners. With one week's notice, we can be ready to announce these policies and release a summary report detailing the Administration's full response to the Committee's 18 recommendations.

Tobacco Advertising: We are reviewing a proposal for the President to take action responding to tobacco companies' use of the internet and other fora to get around our tobacco regulation. We could use "Kick Butts" day to announce this proposal, but we should first get DOJ assurance that this proposal does not compromise our efforts to defend our tobacco regulation in court.

Seat Belt Study: The Department of Transportation will give the President a report in a week or so on ways to increase seat belt use. DOT's report is likely to include ideas for presidential challenges to states and business groups, as well as a proposal (consistent with our budget) to

offer financial incentives to states to improve and enforce seat belt laws.

Children's Health EO: The DPC, NEC, CEQ, and OSTP are working on an executive order designed to ensure that the federal government considers the special needs of children when taking regulatory action. The executive order requires every agency to determine whether a regulation may impose disproportionate risks on children and, if so, to evaluate the specific effects of the regulation on children. Several agencies have raised serious last-minute objections, but we are hoping that we can work these out in the next few weeks.

Education

School construction event. Scheduled for this Friday.

Teachers package. We have discussed unveiling this package during our trip to North Carolina. The President would call on state legislatures around the country to enact major pay incentives for master teachers; explain how our proposed budget will help set a new national standard of excellence in teaching; and issue a number of invitations and challenges.

Testing in Military Schools: We have secured the commitment of the Department of Defense to give students in its schools our proposed 4th and 8th grade tests and to participate in the pilot program. We can announce this commitment whenever (and wherever) we wish to do so.

State School Officer Endorsements: We are lining up endorsements for next Monday's meeting with Chief State School Officers. We'll know by the end of the week where we stand.

California Endorsement of Testing Plan: California's superintendent, Delaine Eastin, is prepared to endorse our testing proposal, and a group of Silicon Valley high-tech executives are prepared to do so as well. We could do a good event during the President's visit March 24. California's endorsement is very important, since the state has 10-15% of the country's schoolchildren.

Advisory Panel for Education Tests: The Education Department is thinking about the appropriate structure and composition of a panel of teachers and other trusted educators to advise on the development of our 4th and 8th grade tests. (The Department may decide to use an existing, non-governmental group to perform this function.) We expect a decision in a few weeks.

Teacher of the Year. The President will meet with the Teacher of the Year and other outstanding teachers at the White House on April 15. He may be able to announce that the National Board for Professional Teaching Standards has selected additional master teachers.

Rollout of America Reads and Hope Scholarship. The President should announce the transmittal of these two pieces of legislation.

Roundtable on Standards. The President could participate in a session with teachers, students, parents, and others to explain the standards associated with his 4th and 8th grade tests. The roundtable would demonstrate with concrete examples the kind of student work -- and the kind of teaching -- that reflects high standards.

Welfare

Welfare-to-Work Transportation Plan: We can announce at any time our Access to Jobs proposal, which would allocate \$100 million of ISTEA funding to improve transportation systems so that welfare recipients and other low-income workers could get to work more easily. Lack of convenient and affordable transportation is currently an obstacle to getting people from welfare to work, and this proposed program is a very serious attempt to address this problem.

Child Support: We can announce new child support enforcement numbers, along with the submission of a new HHS report on child support enforcement and our submission of legislation (previously announced) to make it a felony to cross state lines to evade child support obligations.

Statutory Rape/Teen Pregnancy Prevention: DOJ should be ready sometime in April to release a report on statutory rape and its relation to teen pregnancy rates. We could do a radio address timed to coincide with the release of this report, discussing strategies to enforce statutory rape laws and decrease teen pregnancies.

Crime and Drugs

Hard Liquor Advertising. For years, the hard liquor industry has voluntarily agreed not to show liquor ads on TV. Some companies have now broken that agreement. In furtherance of his National Drug Control Strategy roll-out, the President could send a letter to the FCC requesting that they consider restrictions on hard liquor advertising on television during certain time periods.

Sex Offender Registry. The President could visit the National Center for Missing and Exploited Children in Arlington, Virginia where he would take a tour of facility and announce that the interim National Sex Offender Registration system -- which he directed the Attorney General to develop in the June 21, 1996 Radio Address -- is now up and running. He also would announce that he is signing an Executive Order instructing the Attorney General and the Secretary of Defense to ensure that sex offenders released from Federal and Military prisons are listed in the national registry.

National Anti-Drug Media Campaign. The President's FY 98 Budget Submission includes \$175 million for a national anti-drug media campaign directed towards our youth. We will not be able to expend any funds on this initiative until we enact the appropriation bill, but ONDCP can expend discretionary funds in its FY 97 budget to begin producing anti-drug ads. At a Rose

Garden event, the President could kick off his Administration's anti-drug media campaign with one of the celebrities who has committed to appear in an ad. The President could also release a letter that he is sending to every network issuing his challenge that they match our contribution and begin dedicating more air time to anti-drug ads. ONDCP is currently reaching out to celebrities and sports figures such as Michael Jordan, Grant Hill, and Tiger Woods to tape anti-drug ads, and this event should be ready sometime in April.

Anti-Gang Prosecutor Event. The cornerstone of the President's Anti-Gang and Youth Violence Strategy is a \$200 million anti-gang prosecution grant program. The President could meet with prosecutors from across the country in the Oval Office where they would thank him for his strong support in fighting gangs. The prosecutors -- Republican and Democrat -- would urge Congress to move quickly to pass the President's bill. We recommend April for this event.

After schools Initiatives Event. To highlight his new after-schools initiatives in the Anti-Gang Bill, the President could visit a successful after-school program and meet with the kids helped by the program. That day, he also would announce that HHS is providing several million dollars in grants from its FY 97 appropriation for new after-school programs across the country. This event should occur after the anti-gang event described above.

Victims Constitutional Amendment. In June 1996, the President announced his support for a constitutional amendment for victims rights -- to guarantee victims the right to be notified, to receive restitution, receive reasonable protection measures, and to be heard at sentencing and parole hearings. At a White House event, the President could: (1) urge Congress to pass the Amendment quickly; (2) receive a report from the Attorney General -- in response to his June 25, 1996 Directive -- outlining measures taken by the Justice Department to increase and improve Federal services and protections for victims of crime; (3) announce the creation of a Federal victim notification system; and (4) announce additional funding from the Victims Crime Fund -- which is larger than ever before -- that will be provided to victims services and shelters throughout the country. This event could occur on April 19, the third anniversary of the Oklahoma City bombing or during April 14-18, which is National Crime Victims Week.

Service Summit

Scholars' Program: We announced last year a \$1,000 scholarship for high school students who have performed outstanding service, with the federal government putting up \$500 and a community or service organization (e.g., Lions, Elks, Kiwanis, Moose) putting up the rest. We can be ready any time to do an event inviting high schools that have obtained matching funds to submit names of candidates for the scholarship (perhaps in conjunction with a letter from the President to every high school principal).

Commitments: We could announce "commitments" from the federal government to the service summit -- proposals for how the federal government can support service and voluntarism to help youth. We could be ready to make such announcements in 2-3 weeks if necessary.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:18:38.00

SUBJECT: SLDN briefing Tuesday

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

TEXT:

steve-- could you represent us?

----- Forwarded by Elena Kagan/OPD/EOP on 03/10/97 06:19 PM -----

Richard Socarides
03/10/97 10:27:18 AM
Record Type: Record

To: KERRICK_D @ A1 @ CD @ LNGTWY, Elena Kagan/OPD/EOP, Laura S. Marcus/WHO/EOP, William P. Marshall/WHO/EOP
cc: John Podesta/WHO/EOP, Maria Echaveste/WHO/EOP, Ann F. Lewis/WHO/EOP
Subject: SLDN briefing Tuesday

Representatives of the Servicemembers Legal Defense Network will be here tomorrow, Tuesday, March 11 at 4:30 to discuss the findings of their recent report on "don't ask, don't tell." 122 OEOB. You are all invited to attend.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:34:11.00

SUBJECT: Re:

TO: Phyllis Kaiser-Dark (CN=Phyllis Kaiser-Dark/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

yes, thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:37:00.00

SUBJECT: Re: Calling Bill Corr about possible policy announcements for Weds.

TO: Pauline M. Abernathy (CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

yes, thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 19:26:37.00

SUBJECT: Re: merit systems language in medicaid legislation

TO: Kenneth S. Apfel (CN=Kenneth S. Apfel/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

well, I think Bruce wants to keep the language as is. what are you suggesting?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:22:31.00

SUBJECT: Re: Potential pre-Service Summit event

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

thanks. I think we got a date for this at a scheduling meeting this afternoon -- it looks like March 27.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:25:20.00

SUBJECT: Re: My schedule for departure

TO: Diane C. Regas (CN=Diane C. Regas/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

not me; whatever works for you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 18:31:14.00

SUBJECT: Re: Scheduling Requests

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

sounds great to me.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-MAR-1997 19:27:49.00

SUBJECT: Re: FLSA end game

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

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Too early, I think, except to make him generally aware of the different ways Congress might react to our decision.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 14:43:08.00

SUBJECT: IDEAS

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

TO: DRYE_E (DRYE_E @ A1 @ CD @ LNGTWY [EOP]) (OPD)
READ:UNKNOWN

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

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

TO: Dennis K. Burke (CN=Dennis K. Burke/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

TEXT:

We need as much as you can give us by the end of the day on the ideas Bruce e-mailed you about yesterday -- whether they're doable, what the timetable would be, etc. Sorry for the rush, but the Chief of Staff's Office is pressing us for quick answers. Thanks.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Paul J. Weinstein Jr. Subject: Re: Justice Positions Steve is interested in: (1 page)	03/11/1997	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[03/07/1997 - 03/12/1997]

2009-1006-F

wr5

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: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:16:06.00

SUBJECT: Re: pediatric labeling

TO: Pauline M. Abernathy (CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
friday at 9:30?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 11-MAR-1997 19:26:26.00

SUBJECT: Re: Governors and the conference

TO: Pauline M. Abernathy (CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [OPD])
READ: UNKNOWN

CC: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP @ EOP [WHO])
READ: UNKNOWN

TEXT:

You recommend ... what? Without benefit of your recommendation, I'd pick
(1).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:45:39.00

SUBJECT: Re: FLSA in 94 and 96 Administration WR Bills

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

TEXT:
unfuckingbelievable.

----- Forwarded by Elena Kagan/OPD/EOP on 03/11/97 07:46
PM -----

Diana Fortuna
03/11/97 07:44:40 PM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Elena Kagan/OPD/EOP, Keith J.
Fontenot/OMB/EOP, Jeffrey A. Farkas/OMB/EOP
cc:
Subject: Re: FLSA in 94 and 96 Administration WR Bills

This is wacky! Keith, pardon my ignorance of pre-8/96 history, but under
what circumstances was the 96 draft put together? Did it get a lot of
scrutiny and debate, or did we just throw it together? And why the big
shift from 94 position?

----- Forwarded by Diana Fortuna/OPD/EOP on 03/11/97
07:42 PM -----

Cynthia A. Rice
03/11/97 07:08:04 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Re: FLSA in 94 and 96 Administration WR Bills

Jeff Farkas found basically that our '94 bill kept worker protections for
workfare protections while our '96 bill did not (see below). This will
make our roll-out even more tricky.

----- Forwarded by Cynthia A. Rice/OPD/EOP on 03/11/97
07:01 PM -----

Jeffrey A. Farkas
03/11/97 09:34:15 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Keith J. Fontenot/OMB/EOP, Stacy L. Dean/OMB/EOP

Subject: FLSA in 94 and 96 Administration WR Bills

Here is some information on the FLSA-related provisions of the Administration's 1994 and 1996 welfare bills (in the sections related to cash assistance work programs). Please let me know if you have any questions.

The WORK program in the 1994 bill incorporated a comprehensive set of workfare protections, including minimum wage (FLSA), workers compensation, working conditions, and FICA taxation. The bill did not provide unemployment compensation coverage (at the Federal or State level), and did not allow the EITC for earnings from WORK positions.

The 1996 bill is much less specific than the 1994 bill. It would extend FLSA coverage for work supplementation programs (the language is nearly identical to the work supp provisions in the JOBS statute, where FLSA applied), but not for workfare positions. Under workfare, participants in community service jobs were required to work a designated number of hours (reaching 30 per week in the outyears) and to be paid at a rate which is "100 percent of the maximum amount of assistance that may be provided under the State plan...to a family of the same size and composition with no income." In many instances this level would be sub-minimum wage. In addition, the bill provided that "wages paid under a workfare program shall not be considered to be earned income for purposes of any provision of law." This would seem to preclude application of FLSA.

Message Sent

To: _____

Kenneth S. Apfel/OMB/EOP
Barry White/OMB/EOP
Cynthia M. Smith/OMB/EOP
Jill M. Pizzuto/OMB/EOP
Cynthia A. Rice/OPD/EOP
Larry R. Matlack/OMB/EOP
Janet Himler/OMB/EOP

Message Sent

To: _____

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Diana Fortuna/OPD/EOP
Lyn A. Hogan/OPD/EOP
Kenneth S. Apfel/OMB/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:41:01.00

SUBJECT: naturalization and individuals with disabilities

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

READ:UNKNOWN

TEXT:

adter speaking with steve and diana, I said ok. I would have reached a different decision in the first instance, but it didn't seem worth fighting with Justice.

----- Forwarded by Elena Kagan/OPD/EOP on 03/11/97 07:41 PM -----

Stephen C. Warnath
03/11/97 01:17:25 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP
Subject: naturalization and individuals with disabilities

Elena -- I am requesting your sign-off this afternoon on the disability guidance so that INS can proceed with publishing the regulation with a release date of March 18th. My recommendation is that you approve it. As you know, the guidance states that those who do not demonstrate an understanding of the nature of the oath during the interview will be denied. However, DOJ/INS has determined that notification of denial in an individual case will not be made until Headquarters provides further guidance on the proper process for denying these sensitive cases. This guidance will be issued by mid-April. During this time INS will develop a letter for this particular circumstance explaining why INS is constrained to denying the application and probably involve some supplemental training of field officers. Part of INS' briefing to Congress and interested parties and groups will be to explain this so that any potential criticism of this approach should be minimized.

Dennis Hayashi, who leads HHS implementation, has now recommended to the Secretary that she approve this approach. As a say, this is my recommendation as well. Based upon my conversations with Diana and our understanding of why these cases will be held until April, I believe that she supports this recommendation. (Diana, correct me if I am wrong.)

So please let me know and I will pass the word on so that INS can dot its i's and cross its t's today.

thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:28:11.00

SUBJECT: scheduling proposal

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

TEXT:

I'm assuming you'll answer this (or have already). thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 03/11/97 07:29 PM -----

Karin Kullman
03/11/97 06:22:10 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Christopher C. Jennings/OPD/EOP
cc:
Subject: scheduling proposal

Per a conversation yesterday with Stephanie, I understand that we should be receiving a scheduling proposal for a Healthcare Commission announcement on the 26th of March. Is this correct? Any idea when the proposal will be ready?

thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:39:43.00

SUBJECT: kids eo

TO: Sally Katzen (CN=Sally Katzen/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: MUNNELL_A (MUNNELL_A @ A1 @ CD @ LNGTWY [EOP]) (WHO)
READ:UNKNOWN

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

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

TO: Kathleen A. McGinty (CN=Kathleen A. McGinty/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

Diane C. Regas (CN=Diane C. Regas/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

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

TEXT:

I think it would be helpful for us all to get together to discuss where we are and where we're going on the kids eo. I'd like to call a meeting for Thursday at 9:30 to see if we can reach agreement on the notorious section 5. thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:14:00.00

SUBJECT: Re: Group called FICC

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

do you want to do it? if you want to, you should. If you don't, we can probably do something about that too.

Withdrawal/Redaction Marker Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Elena Kagan to Paul J. Weinstein Jr. Subject: Re: Justice Positions Steve is interested in: (1 page)	03/11/1997	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[03/07/1997 - 03/12/1997]

2009-1006-F

wr5

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: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:41:57.00

SUBJECT: Re: Governors and the conference

TO: Pauline M. Abernathy (CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

It must be the way you framed those options. Now that we're on board...

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:29:47.00

SUBJECT: Re: chicago

TO: Deborah_Fine (Deborah_Fine @ ed.gov @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

TEXT:

wow! how great. the best law school in america. call anytime.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:27:09.00

SUBJECT: March 24 POTUS education event in Calif.

TO: Michael Cohen (CN=Michael Cohen/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

could you take care of this? thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 03/11/97 07:28
PM -----

Timothy L. Newell

03/11/97 05:26:31 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

CC:

Subject: March 24 POTUS education event in Calif.

1. To move forward with the technology CEOs endorsement, we need to be able to give them some language -- essentially tell them specifically what we would like them to endorse. This can be very minimal, even a bullet or two. Is there a specific goal or language you want them to sign on to?

2. Can I get any information on what Easton will be saying? That way I can make sure that the our industry supporters are on board.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 10:31:51.00

SUBJECT: Re: Draft executive order on disability issues

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

TEXT:

omb. i'm always convinced by you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-MAR-1997 19:28:34.00

SUBJECT: Brownfields

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/11/97 07:29 PM -----

Paul J. Weinstein Jr.
03/11/97 06:32:48 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Diane C. Regas/OPD/EOP
Subject: Brownfields

Status of Brownfields --

Administration is resubmitting legislation to create a tax incentive and new grant programs to encourage the cleanup and redevelopment of urban and rural "Brownfields."

EPA wants to rollout an expansion of the existing Brownfields pilot program over the next two months. The DPC is holding a principals meeting next week to ask other agencies to join in this effort to create a "Brownfields Agenda". The DPC is planning to ask agencies to provide funding and regulatory relief to encourage Brownfields cleanup and redevelopment.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 11:00:44.00

SUBJECT: Re: POTUS statement

TO: Eli G. Attie (CN=Eli G. Attie/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Pauline M. Abernathy (CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TEXT:

Both the statement and the one-pager look great to me, though on the statement (1) I would put back some reference to government-funded research (2) fix the couple of typos in the fourth paragrah, and (3) perhaps change the first sentence of the last paragraph slightly (do ALL parents desperately want to do right by their children? how about the abusers, etc. amongst them?)
Do we also have q&a?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 16:10:50.00

SUBJECT: Re: LRM MDH 32 -- Justice Proposed Draft Bill to Amend the Child Support Recover

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

READ:UNKNOWN

TEXT:

can't take much credit on this one. hate to say it, but debra was really very helpful.

March 8, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: ELENA KAGAN

SUBJECT: MONDAY UNION MEETING

John Podesta met with Gerry Shea this afternoon about the agenda for Monday morning's union meeting. The unions want to talk about a number of health and welfare issues: (1) proposed cuts in the Medicaid disproportionate share program; (2) the application of worker protection laws -- particularly the minimum wage -- to welfare recipients participating in workfare programs; (3) state proposals to privatize the administration of federal public assistance programs; and (4) our welfare-to-work plan. It is possible that the unions also will raise our Medicaid per capita cap proposal.

We will fax you materials on all these subjects tomorrow afternoon. In the meantime, I am attaching a memo Bruce and I prepared for the Vice President a few weeks ago on the minimum wage and privatization issues. It should help to give you some background.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 09:39:55.00

SUBJECT: Re: next WH meeting

TO: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
friday at 3. thanks.

WELFARE ISSUES

Application of Labor Laws

As the work requirements of the new welfare law begin to go into effect, a critical question for both the labor movement and the states is whether worker protection laws -- particularly the minimum wage law (Fair Labor Standards Act) -- protect welfare recipients who take part in workfare or subsidized employment programs. The DPC and OMB have been running an interagency process (involving DOL, HHS, USDA, and others) to hammer out an answer to this question. We expect to have a recommendation for the President within the next week, as well as a strategy for rolling out this controversial Administration policy. The unions should view this recommendation, if approved, as satisfactory.

There is general agreement among the agencies, as a matter of both law and policy, that the Fair Labor Standards Act should be read to require payment of at least the minimum wage to most people in workfare and wage supplementation programs. On this reading, participants in such programs usually would count as "employees" under the Act, thus qualifying for minimum wage protection. (A few might count as "trainees," not entitled to the minimum wage, under normal labor law principles that the unions would expect to apply.) Bruce has given the AFL private assurances that the Administration will adopt this basic position. And the Vice President dropped some strong hints to the same effect at the recent AFL meeting.

Requiring the minimum wage for workfare recipients, however, will raise obvious difficulties for the states, in light of the new welfare law's work provisions. Even if a recipient is working only 20 hours each week, the existing welfare grant in many states will fall short of a minimum wage salary. As the work requirement in the law increases to 25 and then to 30 hours, and as the minimum wage also increases, more and more states will discover that their welfare grants are insufficient.

One way to mitigate this new burden on the states is to count benefits other than cash assistance toward the minimum wage. There is a strong legal argument, based on provisions in the food stamp law, that states may add the value of food stamps to the basic welfare grant for purposes of complying with the minimum wage. Even if both these streams of benefits are counted, however, a number of Southern states will immediately come up short, and as the minimum wage increases and the work requirements become more severe, other states will join them over time. Allowing states to count the value of other benefits -- child care, housing, or transportation -- toward the minimum wage would remove this problem, but this proposal raises a number of legal and policy questions that make it difficult (though not impossible) to pursue.

The interagency group also has reviewed what other labor protections apply to

welfare recipients in workfare or subsidized employment programs. The consensus view is that OSHA, unemployment insurance, and anti-discrimination laws will apply in the same way they do for other workers. We do not yet have an absolutely final opinion from Treasury as to whether the monies paid to these welfare recipients will be subject to FICA and other taxes, and if these monies will make recipients eligible for the EITC, but all indications are that they will not. Finally, these workers may well become eligible to unionize. Recent newspaper articles have suggested that some unions will undertake large-scale organizing efforts targeting welfare recipients, and we probably should expect some of these efforts to succeed.

We should expect the announcement of Administration policy along these lines to provoke strong criticism from the States. Governor Whitman wrote to the President last week that applying minimum wage laws to workfare participants would “end welfare reform as we know it” by placing states in the position of either failing to meet the law’s work requirements or incurring large new costs. We also should not be surprised if Congress reacts to our decision by passing a measure that would exempt workfare participants from many labor protections, including the minimum wage, or that would require benefits such as Medicaid and child care to count towards the minimum wage. Even the New York Times editorial board, in discussing union plans to organize workfare participants, has opined that “what they are doing does not amount to a job” -- a view consistent with what the States and Congress will be saying.

Talking Points:

- This Administration is committed to moving people from welfare to work. It’s also committed to making sure workers get at least the minimum wage for their efforts. Workers shouldn’t be paid a subminimum wage, whether or not they come off the welfare rolls.
- The Administration, however, is still studying precisely how the FLSA and other worker protection laws play out in the welfare context; in particular, we’re trying to figure out if there are ways to address certain concerns that States have about how application of these laws would actually work. We may not be able to do that, but we thought it was worth making the effort to prevent a firestorm of opposition from Congress and the States.
- We know this decisionmaking process has taken longer than you -- or we -- anticipated. But we thought it was worth the time to get things right. We expect to have a final answer within the next couple of weeks.

Allowing privatization of assistance programs through waivers:

The new welfare law explicitly allows states to administer and provide Temporary Assistance to Needy Families (TANF) through contracts with private entities. Now, two states (Texas and Wisconsin) are seeking federal approval to contract out certain functions of the Food Stamp and Medicaid programs as well. (Private contractors determining eligibility for Medicaid and Food Stamps would have to follow federal eligibility rules, since those programs remain federally guaranteed individual entitlements.) These states believe that a competitive contracting process will result in greater program efficiencies while protecting recipients. Organized labor is concerned that privatizing these government functions will displace state and local government workers (with a resulting loss of union membership) and will undermine beneficiary rights to due process and confidentiality.

Federal agencies and the State of Texas have been negotiating since May 1996 over a proposal from the State to privatize TANF, Medicaid, Food Stamps, and certain other federally-funded nutrition programs. Under the Texas plan, private contractors would conduct the application and eligibility determination process, and the state would certify the final determinations. The State also would retain control over the appeals and quality control processes. HHS still has not responded to Texas's proposal. Rep. Charles Stenholm, one of the Administration's strongest welfare reform allies, complained about the delay to Frank Raines in a February 24th letter, saying the state of Texas is "willing to make accommodations to address administration concerns." Secretary Shalala has promised Texas an answer within two weeks.

If the Administration does not allow private contracting for Food Stamps and Medicaid, then states will be discouraged from contracting out the TANF program because having separate eligibility systems would create administrative difficulties. For example, it would require some individuals to go to one location to apply for TANF and another to apply for Food Stamps and Medicaid, whereas now nearly all states have one-stop, government-run eligibility centers.

Current Administration thinking on this issue is to allow Texas at least a partial waiver, allowing the State to privatize public assistance operations now performed by State employees. We are still debating whether the Administration should allow Texas to privatize almost all of what it wants to, or whether the Administration should insist that state employees retain control over certain public assistance functions (most notably, the eligibility interview). We hope to have a recommendation for the President by the end of the week.

Talking Points:

- We appreciate your concerns about the effect of granting waivers to states to

allow them to privatize public assistance operations, such as the Medicaid and Food Stamps program.

- **It is important, if we do approve these waivers, to ensure adequate protections for recipients and assistance for displaced workers and we welcome any further information you'd like to give us on these issues over the next few weeks.**

MEDICAID ISSUES

Background

There is almost nothing about the Medicaid policy in the President's budget that AFSCME supports. They are opposed to having any Medicaid savings, arguing that recent downward baseline adjustments mitigate the need for further deficit reduction contributions by Medicaid. They oppose how we achieve the savings, arguing that a per capita cap could hurt vulnerable populations and that cuts in disproportionate share (DSH) payments will hurt public hospitals, the patients they serve, and the employees who work in the institutions. And finally, they are extremely uncomfortable with providing more administrative flexibility to the states, publicly arguing that it will subject beneficiaries to substandard care and reductions in access, and privately worrying that states will contract out with non-union employees to administer Medicaid.

At this time, there is nothing we can do relative to AFSCME's concerns about how we achieve our savings. Our budget is now public and we certainly cannot run away from the per capita cap and the DSH savings proposals. Although they will grumble about our savings policy, AFSCME understands we cannot modify it at this stage in the process. Instead, they are focusing on two issues that they believe we can address: (1) the allocation of DSH savings and (2) our yet to be submitted state flexibility language, particularly as it relates to personnel requirements.

DSH Allocation/Targeting.

AFSCME and the public hospitals agree that there may be limited savings in DSH, but only if it is combined with much better targeting of DSH dollars to the hospitals they say are providing care to the greatest numbers of uninsured, underinsured and high cost Medicaid patients -- the public hospitals. While most of the players (the private hospitals, public hospitals, physicians, the unions, consumer groups, and even some states) all acknowledge there could be better targeting, no one agrees on how best to do it. It is for this reason that we chose to punt on this issue, saying that we wanted to work with interested parties on how best to design an improved allocation formula. Consistent with that, we have already held meetings in the last week and a half with both the unions and the public hospitals, and we plan do to more.

Talking Points:

- I understand your concerns about both the size of the DSH cut and the need for better targeting of these dollars. We agree that we need to find ways to better target dollars, but -- as you know -- the devil is in the details.

- We did not release a specific, new targeting formula because we thought it would more likely hurt, rather than help, the chances of reforming the current allocation approach. If we went ahead with almost anything, the states and many hospitals would have used up all of their energy killing it, rather than working together to find consensus on this difficult issue.
- We have held some constructive preliminary meetings with your policy experts on this issue, and we plan on doing more. Let's keep talking to see if we can come up with something we both can agree on.

State flexibility/personnel requirement issues.

AFSCME is particularly concerned about two provisions in our Medicaid flexibility proposal: (A) the elimination of the waiver process for managed care and (B) a proposal potentially allowing more extensive privatization of the Medicaid program.

Elimination of managed care waivers. AFSCME opposes the elimination of the managed care waiver process. They like this process because it gives them time to weigh in on issues they are concerned about, thus giving them the opportunity to push the Department to make changes before final approval. AFSCME recognizes, however, that our proposal to eliminate the waiver process is extremely popular with the Governors and would be difficult to back away from. Their more realistic goal is to persuade us to develop new quality standards that would address many of the same concerns they now raise in the waiver process. While they will push us in this direction, you should be careful about promising them to participate in our Medicaid flexibility drafting process.

Proposal allowing Medicaid privatization. AFSCME is significantly concerned about our proposals to relax personnel requirements on state Medicaid programs. They charge that such changes will undermine quality and, at least as important to AFSCME, potentially lead to further reductions in force in Medicaid programs around the country. They believe, for example, that allowing non-government employees to make eligibility determinations may create conflict of interest problems for companies that are also overseeing managed care plans. (AFSCME is similarly concerned that the Administration will grant a waiver to certain states allowing them to privatize significant parts of many of their public assistance programs, including Medicaid and food stamps. An earlier section of this memo addresses these issues.)

Unlike the new welfare law, our current Medicaid language does not unambiguously allow states to completely privatize the administration of the program. The language could be interpreted broadly, however, to allow quite extensive privatization. The Administration is still trying to determine exactly how we want to interpret our new Medicaid proposal, particularly on the issue of whether it would allow private personnel to make eligibility determinations. We

have an interagency/OMB/DPC working group finalizing our position in these issues.

Talking Points:

- I understand your concerns about the Medicaid flexibility provisions. We want to work with you on these important issues.
- While we cannot back-track on our position on the elimination of the waiver process, we do want to work with you to assure that appropriate quality standards are in place. When we send up the statutory language, you will see that we are improving our Medicaid quality provisions.
- We understand your concerns about the merit system protections. We are committed to adopting an approach to administering Medicaid that assures a high quality program. I know you have met with Donna Shalala on this issue and I believe we should continue our conversations.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 16:09:48.00

SUBJECT: LRM MDH 32 -- Justice Proposed Draft Bill to Amend the Child Support Recovery Ac

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

READ:UNKNOWN

TEXT:

yippee.

----- Forwarded by Elena Kagan/OPD/EOP on 03/12/97 04:10
PM -----

Melinda D. Haskins 03/12/97 03:41:57 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: James C. Murr/OMB/EOP, Janet R. Forsgren/OMB/EOP, Robert J.

Pellicci/OMB/EOP

Subject: LRM MDH 32 -- Justice Proposed Draft Bill to Amend the Child
Support Recovery Act

You should have just received a copy of a Department of Justice draft bill that would amend the Child Support Recovery Act pursuant to the President's July 21, 1996, directive to establish a felony offense for a person who willfully fails to pay child support for a child in another state. Note that this draft bill is similar to one that Justice transmitted to the Congress on September 27, 1996.

Justice has requested that OMB provide it with clearance to transmit its draft bill by tomorrow (Thursday, March 13th). For this reason, please provide me with comments no later than 10 a.m. tomorrow. Thank you.

Message Sent

To:

Kenneth S. Apfel/OMB/EOP

Cynthia M. Smith/OMB/EOP

Barry White/OMB/EOP

Keith J. Fontenot/OMB/EOP

Robert G. Damus/OMB/EOP

Bruce N. Reed/OPD/EOP

Elena Kagan/OPD/EOP

Cynthia A. Rice/OPD/EOP

Diana Fortuna/OPD/EOP

Emily Bromberg/WHO/EOP

Pauline M. Abernathy/OPD/EOP

David J. Haun/OMB/EOP

E. Irene James/OMB/EOP

Raymond P. Kogut/OMB/EOP

David M. Zavada/OMB/EOP

Alice E. Shuffield/OMB/EOP

William P. Marshall/WHO/EOP

Barry T. Clendenin/OMB/EOP

Wendy A. Taylor/OMB/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 19:19:16.00

SUBJECT: Re: kids eo

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

TEXT:

I'm not very good at this, am I? OEOB 218

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 16:12:52.00

SUBJECT: Re: V.P. Briefing Book

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

TEXT:

sure, but don't let me be a bottleneck -- if I can't get to it, you should
send it in without me.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 09:54:38.00

SUBJECT: Re: CEQ

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

READ:UNKNOWN

TEXT:

he said yes, right?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 17:56:42.00

SUBJECT: Re: religion

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

READ:UNKNOWN

TEXT:

in fact, I emailed bill marshall today to ask where it is (but haven't heard back)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 18:00:36.00

SUBJECT: Re: Race Meeting

TO: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

I'll be there

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 13:36:18.00

SUBJECT: Re: Products Liability Meeting

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

TEXT:

I have another meeting at 5:30. OK?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 18:29:37.00

SUBJECT: kids eo

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

TO: Sally Katzen (CN=Sally Katzen/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: MUNNELL_A (MUNNELL_A @ A1 @ CD @ LNGTWY [EOP]) (WHO)
READ:UNKNOWN

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

TO: Kathleen A. McGinty (CN=Kathleen A. McGinty/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

TEXT:

At the request of a couple of you, we are moving the meeting to thursday
at 6. Last change, sorry. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 10:17:55.00

SUBJECT: a few matters

TO: John Podesta (CN=John Podesta/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

1. I've talked with Barney Frank and Elizabeth Birch about the federal employee benefits legislation Frank is introducing. He'd like us to sign on at the beginning, and is willing to wait a few weeks for us to decide whether we want to. If we're not interested at all, he'd like to know now, so he can introduce the bill next week. What kind of process do you think makes sense on this?
2. You told me a few weeks ago that you thought we should let sleeping dogs lie on the question of unionizing the uniformed division of the secret service. I think you, Rahm, and I should discuss this matter, because my best information is that the dogs aren't sleeping. Let me know when you want to talk.
3. I'm still waiting for Justice to tell me something sensible on the AFSCME Juvenile Justice question. Sorry this is taking so long; I'll try to step it up.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 16:12:09.00

SUBJECT: Tobacco update for north carolina trip.

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

TEXT:

OK, can I ask you a question: what is this about sending memos to the President without one of us (or perhaps it should just be you) signing off on it?

----- Forwarded by Elena Kagan/OPD/EOP on 03/12/97 04:12 PM -----

Elizabeth Drye
03/12/97 04:01:39 PM
Record Type: Record

To: Helen P. Howell/WHO/EOP
cc: Bruce N. Reed/OPD/EOP, Michelle Crisci/WHO/EOP, Elena Kagan/OPD/EOP, Nicholas R. Baldick/WHO/EOP
Subject: Tobacco update for north carolina trip.

Helen, call if you'd like a hard copy. 6-5573.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D51]MAIL456385070.016 to ASCII,
The following is a HEX DUMP:

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March 12, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Elizabeth Drye, DPC

SUBJECT: Update on Tobacco Issues for North Carolina Trip

Implementation of FDA Rule

As you know, the first two provisions of the FDA's tobacco regulation took effect February 28, prohibiting retailers from selling cigarettes and smokeless tobacco products to persons under age 18 (already state law in all states) and requiring retailers to check photo identification for all individuals under age 27. FDA has conducted an extensive outreach program to inform retailers and communities about these requirements. To enforce the rule, FDA will first send a warning letter to any retailer who sells tobacco products to minors. Retailers who violate the rule a second time will be subject to civil money penalties.

Most other provisions of the FDA rule, including restrictions on advertising, take effect August 28, 1997. The prohibition on sponsoring sporting events applies one year later. You've asked Congress for \$34 million in FY 98 to implement the rule.

Status of Litigation

As you know, manufacturers of cigarettes and smokeless tobacco, the American Advertising Federation, the National Association of Convenience Stores and others have challenged FDA's rule in court. North Carolina filed an amicus brief opposing the FDA rule. The suits have been consolidated, and on February 10, Judge William Osteen of the Federal District Court in Greensboro, North Carolina heard oral arguments. He expects to rule within 5-10 weeks from that date (i.e. between March 17 and April 21).

Debate in North Carolina State Legislature on Access Restrictions

The state legislature is considering a bill, proposed by N.C. Attorney General Mike Easley, to strengthen the state law prohibiting sales to minors. The legislation, supported by the tobacco industry and the health community, would remove the word "knowingly" from the state prohibition against knowingly selling cigarettes to people under 18. Like other industry-supported bills, it would strengthen penalties for kids who purchase cigarettes; specifically, it makes using a fake ID a misdemeanor. Proponents assert that this law will reduce the need for the access restrictions in FDA's rule, but in debate on the bill some Senators argued that local police won't enforce the state law given competing priorities.

State laws restricting sales to kids have largely failed; studies show minors succeed at buying cigarettes over-the-counter nearly 70% of the time. The FDA requirement to check ID provides a

critical, added incentive for retailers to stop selling tobacco products to children.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-MAR-1997 19:39:32.00

SUBJECT:

TO: DRYE_E (DRYE_E @ A1 @ CD @ LNGTWY [EOP]) (OPD)
READ:UNKNOWN

TO: Dennis K. Burke (CN=Dennis K. Burke/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TO: Pauline M. Abernathy (CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT: