

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 009 - FOLDER 002

[5/11/1999 - 5/26/1999]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Laura Emmett re: Personal (4 pages)	05/11/1999	Personal Misfile
002. email	Elena Kagan to Jose Cerda III and Bruce Reed re: thanks [partial] (1 page)	05/11/1999	P6/b(6)
003. email	Elena Kagan to Laura Emmett re: Personal (3 pages)	05/20/1999	Personal Misfile
004a. email	Elena Kagan to Sarah Wilson and Eric Angel re: Form (1 page)	05/21/1999	P2, P5, P6/b(6)
004b. email attachment	Form (35 pages)	05/21/1999	P2, P5, P6/b(6)
005. email	Elena Kagan to Karen Tramontano and Bruce Reed re: Profiling (1 page)	05/24/1999	P6/b(6)
006. email	Elena Kagan to Einer Elhauge re: Support (1 page)	05/26/1999	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[05/11/1999-05/26/1999]

2009-1006-F
bm112

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]

Withdrawal/Redaction Marker

Clinton Library

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001. email	Elena Kagan to Laura Emmett re: Personal (4 pages)	05/11/1999	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[05/11/1999-05/26/1999]

2009-1006-F
bm112

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
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- b(1) National security classified information [(b)(1) of the FOIA]
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Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Elena Kagan to Jose Cerda III and Bruce Reed re: thanks [partial] (1 page)	05/11/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[05/11/1999-05/26/1999]

2009-1006-F
bml12

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]
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RR. Document will be reviewed upon request.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-MAY-1999 17:13:04.00

SUBJECT: thanks

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

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

TEXT:

Todd repeated this to me just half an hour ago. He really was very impressed.

----- Forwarded by Elena Kagan/OPD/EOP on 05/11/99 05:15 PM -----

Jose Cerda III
05/11/99 01:58:37 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Leanne A. Shimabukuro/OPD/EOP
Subject: thanks

You guys owe me...jc3
----- Forwarded by Jose Cerda III/OPD/EOP on 05/11/99 01:59 PM -----

Todd Stern
05/11/99 01:53:42 PM
Record Type: Record

To: Jose Cerda III/OPD/EOP
cc:
Subject: thanks

You get a bushel full of gold stars. You were extremely helpful, and I think may have actually moved the ball forward with our friends. And your ability not to get provoked by P6/(b)(6) was impressive and, I think, valuable. Many thanks. tds

[002]

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:11-MAY-1999 17:14:50.00

SUBJECT: RECEIVED: REMINDER--COMMENTS ON LRM MNB65 - - LABOR Testimony on H.R. 1434, A bil

TO: Melissa N. Benton (CN=Melissa N. Benton/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

REMINDER--COMMENTS ON LRM MNB65 - - LABOR Testimony on H.R. 1434, A bill to amend the Occu
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/11/99 05:16:46 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:12-MAY-1999 17:06:39.00

SUBJECT: RECEIVED: Clearance Needed on Ashcroft amendment to youth crime bill ASAP!

TO: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Clearance Needed on Ashcroft amendment to youth crime bill ASAP!

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/12/99 05:08:13 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-MAY-1999 20:30:27.00

SUBJECT: Re: EPICC memo

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

READ:UNKNOWN

TEXT:

could you give me a hard copy? for some reason, I can't get into this document. thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 14:14:22.00

SUBJECT: Re: Court Rules on Welfare Benefits

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

TEXT:

yes, you have this got this wrong. we got two votes.

----- Forwarded by Elena Kagan/OPD/EOP on 05/17/99 02:17
PM -----

Barry J. Toiv

05/17/99 01:55:23 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: bruce n. reed/opd/eop, elena kagan/opd/eop, laura emmett/who/eop,
andrea kane/opd/eop
Subject: Re: Court Rules on Welfare Benefits

Have I got this wrong? Didn't the court agree with DOJ in this case?

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:17-MAY-1999 18:45:18.00

SUBJECT: RECEIVED: New Language Containing Revisions to Titles IV and VII

TO: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

New Language Containing Revisions to Titles IV and VII

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/17/99 06:48:21 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:17-MAY-1999 14:14:08.00

SUBJECT: RECEIVED: Re: Court Rules on Welfare Benefits

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

TEXT:
RETURN RECEIPT

Your Document:
Re: Court Rules on Welfare Benefits
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
05/17/99 02:16:13 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 14:40:08.00

SUBJECT: Re: Court Rules on Welfare Benefits

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

TEXT:

That's a much better response than I gave Barry; I just told him we got two votes.

----- Forwarded by Elena Kagan/OPD/EOP on 05/17/99 02:42 PM -----

Cynthia A. Rice
05/17/99 02:35:40 PM
Record Type: Record

To: Barry J. Toiv/WHO/EOP
cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP, Andrea Kane/OPD/EOP
bcc:
Subject: Re: Court Rules on Welfare Benefits

Our brief expressed doubt over whether California had implemented the state option in a constitutional way, but said the district court needed to do more fact finding. Our brief also argued that the federal statute providing the option is constitutional, i.e, it can be implemented in a constitutional way.

I'm getting the opinion now, but I understand that it rules that the California law is unconstitutional, without further fact-finding. The court did not comment on the constitutionality of the federal law (which was not before the court) but it's language indicates that there court finds many constitutional hurdles.

Elena and I agree we should defer to Justice. As a practical matter, states considering such policies will need to review the court's guidance as they go forward.

Barry J. Toiv

05/17/99 01:55:23 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: bruce n. reed/opd/eop, elena kagan/opd/eop, laura emmett/who/eop, andrea kane/opd/eop

Subject: Re: Court Rules on Welfare Benefits

Have I got this wrong? Didn't the court agree with DOJ in this case?

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:18-MAY-1999 12:27:46.00

SUBJECT: RECEIVED: Urgent -- Treasruy/Education Veto Letter -- comments due by 2 PM today

TO: Ronald E. Jones (CN=Ronald E. Jones/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Urgent -- Treasruy/Education Veto Letter -- comments due by 2 PM today
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/18/99 12:30:16 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:18-MAY-1999 12:39:36.00

SUBJECT: RECEIVED: Reminder--comments on LRM MNB72 - - LABOR Report on HR1381 Rewarding Pe

TO: Melissa N. Benton (CN=Melissa N. Benton/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Reminder--comments on LRM MNB72 - - LABOR Report on HR1381 Rewarding Performance in Compen
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/18/99 12:31:11 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:18-MAY-1999 17:05:38.00

SUBJECT: RECEIVED: REVISED -- Treas/Education Veto Letter

TO: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

TEXT:
RETURN RECEIPT

Your Document:
REVISED -- Treas/Education Veto Letter
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
05/18/99 05:07:59 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:18-MAY-1999 17:05:39.00

SUBJECT: RECEIVED: DRAFT DoL Letters for Clearance TODAY

TO: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

DRAFT DoL Letters for Clearance TODAY

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/18/99 05:07:56 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:18-MAY-1999 12:34:35.00

SUBJECT: RECEIVED: New ESEA Social Promotion Language

TO: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

TEXT:
RETURN RECEIPT

Your Document:
New ESEA Social Promotion Language
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
05/18/99 12:30:33 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 10:17:53.00

SUBJECT: Re: ftc

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

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

TEXT:

He really did. Although we focused on the PG rating, he did call for the industry to reevaluate its whole ratings system. I think it would seem a bit weird to come out now with another specific suggestion for changing the system -- even though it makes perfect sense.

----- Forwarded by Elena Kagan/OPD/EOP on 05/19/99 10:18 AM -----

Bruce N. Reed
05/19/99 10:11:02 AM
Record Type: Record

To: Neera Tanden/WHO/EOP
cc: elena kagan/opd/eop
Subject: Re: ftc

Didn't the President's challenge on Saturday address the ratings issue?

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:19-MAY-1999 13:09:46.00

SUBJECT: RECEIVED: Josh G is proposing a few edits to our statement

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Josh G is proposing a few edits to our statement
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/19/99 01:05:02 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 13:03:39.00

SUBJECT: Josh G is proposing a few edits to our statement

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

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

TEXT:

I'm OK with all, though the "whatsoever" strikes me as a bit over the top.
 ----- Forwarded by Elena Kagan/OPD/EOP on 05/19/99 01:06
 PM -----

Cynthia A. Rice
 05/19/99 01:01:12 PM
 Record Type: Record

To: Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP
 cc: J. Eric Gould/OPD/EOP
 Subject: Josh G is proposing a few edits to our statement

What do you think?
 ----- Forwarded by Cynthia A. Rice/OPD/EOP on 05/19/99
 01:02 PM -----

Victoria A. Wachino
 05/19/99 12:25:25 PM
 Record Type: Record

To: Cynthia A. Rice/OPD/EOP
 cc: See the distribution list at the bottom of this message
 Subject: Re: Here's the tobacco statement Podesta asked us to
 draft this morning

The statement looks good. Please send us your final version as soon as you can so we can make sure the signing statement and enrolled bill memo are consistent w/ your final text. Here are our edits:

I am extremely disappointed that the Congress forfeited the federal government's taxpayers' claim to the \$246 billion tobacco settlement, without any commitment whatsoever from the states to use a portion of the settlement funds to prevent youth smoking. Even though 3,000 young people become regular smokers every day and 1,000 will have their lives cut short as a result, most states still have no plans to use tobacco settlement funds to reduce youth smoking. Congress passed up an important opportunity to protect our children from the death and diseases caused by tobacco. This is wrong. I will closely monitor state efforts in this area and I will continue to fight for a nationwide effort to reduce youth smoking through counteradvertising, prevention activities, and restrictions on youth access to tobacco products.

Our thinking behind the last edit: presently, at least some states have

tobacco control programs in place to reduce youth smoking, so saying they "have no programs" is inaccurate.

Thanks.

Message Copied

To:

Joshua Gotbaum/OMB/EOP

Daniel N. Mendelson/OMB/EOP

Jeffrey A. Farkas/OMB/EOP

Richard J. Turman/OMB/EOP

Mark E. Miller/OMB/EOP

Linda Ricci/OMB/EOP

Jennifer M. Forshey/OMB/EOP

J. Eric Gould/OPD/EOP

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:19-MAY-1999 18:42:19.00

SUBJECT: RECEIVED: Change to title XI

TO: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

TEXT:
RETURN RECEIPT

Your Document:
Change to title XI
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
05/19/99 06:43:23 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:19-MAY-1999 11:20:08.00

SUBJECT: RECEIVED: Draft statement

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Draft statement

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/19/99 11:21:20 AM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:19-MAY-1999 11:20:07.00

SUBJECT: RECEIVED: Here's the tobacco statement Podesta asked us to draft this morning

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Here's the tobacco statement Podesta asked us to draft this morning
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/19/99 11:22:01 AM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:19-MAY-1999 20:05:41.00

SUBJECT: RECEIVED: URGENT DEADLINE -- Treas/Postal draft FY00 Approps lttr -- FOR YOUR SIG

TO: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

URGENT DEADLINE -- Treas/Postal draft FY00 Approps lttr -- FOR YOUR SIGN-OFF

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/19/99 08:07:36 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:20-MAY-1999 12:26:40.00

SUBJECT: RECEIVED: URGENT -- POTUS Letter/Harkin - DRAFT

TO: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

TEXT:
RETURN RECEIPT

Your Document:
URGENT -- POTUS Letter/Harkin - DRAFT
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
05/20/99 12:27:00 PM

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Elena Kagan to Laura Emmett re: Personal (3 pages)	05/20/1999	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[05/11/1999-05/26/1999]

2009-1006-F
bm112

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]
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- 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:20-MAY-1999 14:54:33.00

SUBJECT: FYI -- Bill Galston asked me to share this with you as an FYI

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I'm the biggest fan of RFRA (now RLPA) in this building, but you should not take this advice right now. You'll have a gay/lesbian firestorm on your hands. (Alternatively, if you come out for a version of RFRA that has a civil rights carve-out, you'll have a religious groups firestorm on your hands.) We had a meeting with the religious groups yesterday and are having a meeting with the gay groups Monday to see whether we can work out some kind of rapprochement (sp?). We'll let you know as soon as it's safe to go back in the water.

----- Forwarded by Elena Kagan/OPD/EOP on 05/20/99 02:53 PM -----

Eli G. Attie @ OVP
05/20/99 01:28:51 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

CC:

Subject: FYI -- Bill Galston asked me to share this with you as an FYI

----- Forwarded by Eli G. Attie/OVP on 05/20/99 01:27 PM -----

Bill Galston <wg14@umail.umd.edu>

05/20/99 11:14:55 AM

Please respond to Bill Galston <wg14@umail.umd.edu>

Record Type: Record

To: Eli G. Attie/OVP

CC:

Subject: Religious Freedom Restoration Act

- Rfra.wpd

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

May 19, 1999

MEMORANDUM FOR THE VICE PRESIDENT

FROM: BILL GALSTON

VIA: ELAINE KAMARCK

SUBJ: RELIGIOUS FREEDOM RESTORATION ACT

During the speech preparation on Monday, you indicated a strong interest in the Religious Freedom Restoration Act. The purpose of this memorandum is to provide some background on this legislation, update you on its current status, and offer a proposed position and speech language for your consideration.

Background

From 1963 through 1990, legislation and jurisprudence concerning the free exercise of religion was guided by the Supreme Court's decision in Sherbert v. Verner. In that decision, the Court said that any law "substantially burdening" religious liberty could only be justified if it promoted a "compelling state interest." This test had the effect of forcing government to discharge a heavy burden of proof before it would be allowed to proceed with legislation that interfered with religious free exercise to any significant degree. Most faith communities were satisfied with this interpretation of the Free Exercise Clause.

In 1990, the status quo was disrupted by the Court's decision in Employment Division v. Smith. In a bitterly contested 5-4 decision with the majority's opinion by Justice Scalia, the Court set aside the compelling state interest test and said in effect that neutral laws of general applicability promoting legitimate state purposes would be presumed constitutional even when not supported by a compelling governmental interest, and even if their effect was to interfere with the religious practices of some individuals or religious groups

This decision sparked widespread outrage in faith communities. Starting in 1991, Congress convened hearings, and a broad coalition came together around the Religious Freedom Restoration Act (RFRA), which was enacted into law in 1993 with the strong support of the Clinton-Gore administration. The stated purpose of RFRA was to restore the compelling state interest test as set forth in Sherbert v. Verner and to offer opportunities for legal claims and defenses to individuals whose religious exercise is substantially burdened by government. The law prohibited government from substantially burdening religious exercise unless it can be demonstrated that the burden (1) furthers a compelling governmental interest and (2) is the least intrusive means of furthering that interest.

From the outset, worries were raised about the constitutionality of this law. There was no doubt that it was intended to overturn the Smith decision and to establish through legislation an

alternative understanding of the Constitution. This could be regarded as a violation of separation of power--that is, as a congressional usurpation of a quintessentially judicial function. That is what the Supreme Court did in City of Boerne v. Flores, handed down in 1997. The facts were as follows: the Catholic archbishop of San Antonio applied for a building permit to enlarge a church in the town of Boerne, Texas. When local authorities denied the permit, citing a local historic preservation ordinance, the Archbishop brought suit under RFRA. The Court held that RFRA was not a proper exercise of congressional authority under section 5 of the Fourteenth Amendment, on which Congress had relied in making RFRA binding on the states. Six justices concurred, though for varying reasons; three--O'Connor, Breyer, and Souter--dissented.

In the wake of the Boerne decision, the religious coalition regrouped and redrafted RFRA to neutralize the Court's constitutional objections. Rather than relying on section 5 of the Fourteenth Amendment, the revised bill--now called the Religious Liberty Protection Act (RLPA)--rests its case for enforcement powers vis-a-vis the states on the commerce and spending clauses.

After going nowhere in Congress in 1998, the RLPA has gathered momentum this year. Hearings were held before the House Judiciary Committee in March, and a markup is expected in the next few weeks. The religious coalition that supported RFRA so strongly continues to push for the revised bill.

There is a new wrinkle, however. I am told that some groups--mainly gay and lesbian rights organizations--have raised objections to RLPA on the grounds that it could enhance the ability of individuals citing religious convictions to discriminate against them and other minorities. For this reason, the ACLU has broken ranks and is demanding language in the bill specifying that religious free exercise claims cannot be used to justify discrimination. (This may be the reason why there are as yet no Democratic cosponsors for this bill in the House.) The pro-RLPA coalition, though overwhelming sympathetic to this concern, believes that allowing any carve-outs would open the political floodgates to a host of others--prison officials, local zoning authorities, and school administrators, for starts--that would kill the bill, and they are therefore opposing all amendments. This is the position of traditionally liberal, pro-civil rights religious groups such as Reform Jews as well as more traditionalist groups.

You should also be aware of the fact that a coalition of the principal organizations representing states, counties, and municipalities has put this bill on its list of so-called "preemption" legislation that the coalition opposes on the grounds that it makes life more difficult for state drug programs, municipal zoning ordinance, and the like.

Recommendation

Despite these difficulties, I believe that you should move affirmatively in this area and that you can do so without becoming entangled in a controversy among friends. Specifically, you could say in next Monday's speech that:

(1) The free exercise of religious faith is one of the very most importance values in our entire constitutional tradition and deserves that highest possible level of protection.

(2) You disagree with the Court's Smith decision on the grounds that it needlessly and dangerously weakens protections for religious freedom against government intrusion. (For example, in the wake of Smith, courts in Michigan and Rhode Island forced the families of Jewish accident victims to endure government-ordered autopsies of their loved ones even though autopsies directly violate a basic tenet of Jewish law and there was no finding that the autopsies were necessary for compelling government purposes such as suspicion of foul play or contagious disease.)

(3) While you understand the Court's constitutional objections to RFRA, you continue to believe that corrective legislation is necessary and proper. Our tradition of civil rights makes it clear that no part of our government--federal, state, or local--has the right to act in ways that deny individuals the enjoyment of fundamental liberties, and religious free exercise is certainly one of those liberties.

(4) You support legislation, consistent with the Constitution, that requires governments to show that action restricting religious free exercise is necessary to further a compelling purpose and does so in the least burdensome way. You are convinced that this can be done in a way that is consistent with the full range of our cherished individual and civil liberties.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-MAY-1999 17:48:55.00

SUBJECT: Re: senate form

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

READ:UNKNOWN

TEXT:

thanks much.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-MAY-1999 16:44:00.00

SUBJECT: Re: ESEA

TO: Fred DuVal (CN=Fred DuVal/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

That's great. Thanks, Fred.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:21-MAY-1999 16:43:35.00

SUBJECT: RECEIVED: FOR YOUR CLEARANCE -- final Draft House Rules SAP for Ag/Rural Developm

TO: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

FOR YOUR CLEARANCE -- final Draft House Rules SAP for Ag/Rural Development Approps Bill, F
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/21/99 04:46:11 PM

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004a. email	Elena Kagan to Sarah Wilson and Eric Angel re: Form (1 page)	05/21/1999	P2, P5, P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[05/11/1999-05/26/1999]

2009-1006-F
bm112

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]

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004b. email attachment	Form (35 pages)	05/21/1999	P2, P5, P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[05/11/1999-05/26/1999]

2009-1006-F
bm112

RESTRICTION CODES

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

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**REMARKS BY VICE PRESIDENT AL GORE
ON FAITH AND FAITH-BASED ORGANIZATIONS
Monday, May 24, 1999**

I. SET-UP: FAITH AND AMERICA'S COMMON VALUES

Today, I want to talk about one of America's greatest strengths: the faith and religious values of our people.

This is a subject that has weighed on my mind since the awful events at Columbine High School, and the senseless shooting at Heritage High School just four days ago. We must make it easier for all Americans to live and express their own faith – to strengthen the values we share.

That is in the best tradition of our nation. George Washington once said that Americans have “abundant reason to rejoice that in this land, every person may worship God according to the dictates of his own heart.” Religious freedom is America's first freedom. We have been proud to press for it around the world.

From the beginning of our history, refugees from religious persecution have come here for safety. My mother's family, the Lafons, were French Huguenots, driven from their homeland because of their religious faith, Protestantism. They found a new home here in America. My family has never taken our freedom to worship for granted.

As America's faith traditions have flourished, they have both shaped and strengthened our common values: honesty and discipline. Character and community. Belief in the family. Belief in responsibility – and in responding to the needs of others.

Today, faith is showing a new and vital power at the grassroots. Community by community, a growing movement of faith- and values-based organizations are helping to meet some of our most intractable social problems – challenges that had confounded us for decades: turning around the drug-addicted; moving people from welfare to work; breaking up dangerous teen gangs. In many of these efforts, faith is the leaven that rises the bread – the unique and transformative ingredient that enables people to turn their lives around.

That is why I have chosen to address this subject today. At a time when our spiritual needs have never been greater – at a time when too many children and families want moral sustenance and strength – faith can play a powerful role for those who choose it.

I believe America must do more to strengthen and sustain our faith-based values – in ways that also strengthen the core freedoms enshrined in our Constitution.

II. THE NEW POWER OF FAITH-BASED APPROACHES TO SOCIAL PROBLEMS

We should start by recognizing that today, faith is at the heart of a new movement for social action in America.

It is a movement I first encountered through the annual “Family Reunion” policy conferences Tipper and I hold each summer – where we learned how a higher example can help reconnect children with fathers who had abandoned them. In many cases, nothing else had worked -- until faith was added to the equation.

I have also seen the transformative power of faith-based approaches through the national Coalition I have led to help people move successfully from welfare to work – the Coalition to Sustain Success.

In San Antonio, I met a woman named Herlinda Flores. Lilly had given up on finding work, and had gone on welfare. She had so many challenges to face. English was her second language. She didn’t think she had the skills to hold a job. And she had begun to conclude that maybe she didn’t deserve one. Then she signed up for job training at the Christian Women’s Job Corps.

Through the Job Corps, she met a woman who mentored through prayer and bible study, and she soon began to regain her self-confidence. Faith gave her a new feeling of self-worth, of purpose – something no other program could give her. When I met her, she told me that for the first time in years, she had applied for a position at Wal-Mart. Then she looked me in the eye, and said with pride, “I know I’ll get the job.” She did. She was recently honored as employee of the month.

In San Francisco, I met a woman named Vicki Van Fossen. Because of a severe drug addiction, she had lost custody of her two children, lost her job, and gone on welfare. The only way back was to beat her addiction, and nothing seemed to work. Then she joined a faith-based program that was part of our Coalition to Sustain Success, and finally gained the inner strength to become clean. She regained custody of her children. And she has kept a full-time job. When I asked what she could do for others in the same bind, she said, “unfortunately, nothing -- unless they want to change first.” For Vicki, it was faith that enabled her to pry open the vise grip of drug addiction.

That is why, as part of the National Drug Control Strategy I announced earlier this year, we are now doing special outreach to the faith community, to enlist them in our war against drugs.

My wife Tipper sees the power of faith through her work with the homeless at Christ House, in Washington, D.C. Many at Christ House are struggling with substance abuse and mental health issues -- but there is often a spiritual void as well. So Christ House does more than provide shelter and medical care. It creates a loving, trusting atmosphere that helps address the issues that led to homelessness in the first place. Its founder tells the story of a reporter who spent a week there, interviewing the patients. At the end of her time, she said: “What amazed me is that for all of the medical treatment, I didn’t hear anyone talking about putting on bandages, or

taking medication.” Instead, they talk of “a much deeper type of healing.”

Then there is Reverend Eugene Rivers, who has been hailed for helping to take back the worst neighborhoods of Boston through faith. He remembers a hardened gangster telling him: “I’m there when Johnny goes out for a loaf of bread for mama. I’m there, you’re not. I win, you lose. It’s all about being there.” But Reverend Rivers resolved that he would be there, too. He was, and he faced down the gangs. He did for the children of Boston what no other program had done -- what it sometimes takes God’s help for all of us to manage: he loved them, no matter how beaten down, how hopeless, how despairing.

Partly because of his work, Boston went 18 months without losing a single child to gun violence. Even Boston’s most hard-boiled police and prison wardens have been surprised to see the difference that faith makes.

“You couldn’t function effectively without ministers in Boston,” says William Bratton, Boston’s former police commissioner.

Boston’s Mayor, Thomas Menino, says of faith leaders: “They have a mission. They get it done.”

Ron Corbett of the State’s Probation Department says, “We went through a phase where we were pretty skittish about dealing with religious organizations.” Based on their success in turning around the toughest prisoners, he had to admit: “we were wrong.”

I believe the lesson for our nation is clear: in those specific instances where the unique power of faith can help us meet crushing social challenges that are otherwise impossible to meet – such as drug addiction and gang violence – we should explore carefully-tailored partnerships with our faith community, so we can use the approaches that are working best to meet our urgent needs.

In that way, we can allow faith and religious values to play a greater role in our hardest-pressed communities, in ways that benefit us all.

III. ALLOWING FAITH IN OUR SCHOOLS, IN OUR WORKPLACE, AND IN OUR NATION

We need to do more to allow faith and values to flourish not just in our hard-pressed communities, but also in our schools, in our workplaces, and in our society at large. And I believe we can and must do so in ways that do not erode the separation of church and state.

Let’s consider our schools. In Jefferson County, Colorado, I met and embraced the parents of Cassie Bernal, who died at Columbine. Her last words, as she started into the barrel of a loaded gun, were: “yes, I do believe in God.”

Her faith made her strong.

When the shooting began, she was quietly reading her Bible in the Columbine library. She knew she did not have to leave her faith at the schoolhouse door.

Today, in too many communities, children and teachers are still not aware of their right to voluntarily practice their religious beliefs -- including prayer in school -- and to pursue religious activities on school grounds.

Yet studies show that children who are involved in religious activities are much less likely to use drugs. And common sense tells us that in a culture of chaotic values, children are more likely to stay out of trouble if they are spiritually grounded.

That is why, in 1995 and again last year, our Department of Education issued clear guidelines to clear up the confusion about the kinds of religious activity that are permissible in public schools -- and we gave those guidelines to every school district in America.

Here is what they say: students have the right to pray privately and individually in school. They have the right to say grace at lunchtime. They have the right to meet in religious groups on school grounds and to use school facilities, just like any other club. They have the right to read the Bible or any religious text during study hall or free class time. They also have the right to be free from coercion to participate in any kind of religious activity in school.

There are some who believe we need a Constitutional Amendment to allow prayer in our schools. We already have one. It's called the First Amendment.

Since we issued these guidelines, appropriate religious activity has flourished in our schools, and there has been a substantial decline in the debate and litigation that has accompanied this issue for too long.

Two years ago, we applied the same approach to the federal workplace. We clarified that federal employees may engage in personal religious expression to the greatest extent possible, consistent with workplace efficiency and the requirements of law.

We clarified that federal employers may not discriminate in employment on the basis of religion. And we clarified that an agency must reasonably accommodate its employees' religious practices.

IV. DRAWING A CLEAR LINE: THE SEPARATION OF CHURCH AND STATE

The question now is, how do we move forward? How do we strengthen the faith and religious values that build character and community, while protecting the First Amendment freedoms that are so essential to religious freedom itself?

Let me be clear: I believe very strongly in the separation of church and state – and the careful balance that has served us well since our founding.

Our founders knew history. They could look back on centuries of religious war in Europe that tore nations apart. They resolved that religious war should never tear this nation apart – and the only way to do that was to allow religious freedom. The history of the United States has proven their wisdom.

But our founders also believed deeply in faith. They created the Bill of Rights in large measure to protect its free expression.

They believed – and I believe – that we can protect against the establishment of religion without infringing in any way on its free exercise. That belief is at the very heart of our Constitution. And we must keep on working to make it a reality in our public life.

The separation of church and state has been good for all concerned – good for religion, good for government, good for those who choose not to worship at all. It is our freedom from persecution, our absolute and unassailable choice of how to worship, that keeps religion strong.

But it is our religious values that help keep our nation strong. That is why we must always reexamine that crucial balance. Have we gone too far in discouraging faith in our public discourse and personal lives? Have we gone too far in promoting faith and religious values?

In our founders' day, the greatest need was to protect the unbeliever from religious coercion. Today, we also need to ensure that believers of all faiths are free to engage in our national dialogue and our pressing social challenges -- without feeling that they must hide their religious beliefs.

V. FOUR PRINCIPLES FOR GOVERNMENT ACTIONS

I want to suggest four simple principles to strengthen and sustain faith and religious values in America, while holding fast to our cherished Constitutional freedoms.

First, our laws and institutions should not impede or hinder, but rather should protect and preserve our fundamental religious liberties.

Second, the government should be held to a very high level of proof before it interferes with someone's free exercise of religion.

Third, whenever possible, we should help to explain and clarify the fullest allowable expression of religious beliefs that is consistent with our Constitution.

Fourth, we must consider special measures – consistent with the Constitution -- when faith proves a unique and effective role in meeting our most intractable social problems.

VI. NEW POLICY PROPOSALS

Today, I would like to propose two concrete actions we can take to strengthen and promote faith-based values and approaches in our nation – by strengthening our faith-based organizations.

The 1996 welfare reform law contained a little-known provision called “Charitable Choice.” It says, simply, that states can enlist faith-based organizations to provide basic welfare services, and help move people from welfare to work.

As long as there is always a secular alternative for anyone who wants one, and as long as no one is required to participate in religious observances as a condition for receiving services, faith-based organizations can provide jobs and job training, counseling and mentoring, food and basic medical care. They can do so with public funds – and without having to alter the religious character that is so often the key to their effectiveness.

I believe we should explore a similar, carefully-tailored extension of this approach to vital services where faith plays a unique and effective role – such as drug treatment, homelessness, and youth violence prevention.

This extension must be accompanied by clear and strict safeguards: government must never promote a particular religious view, or force anyone to receive faith. We must ensure that there is always a high-quality secular choice available. We must prohibit direct proselytizing as part of any publicly-funded efforts. And we must establish clear accountability for results.

But we must not be afraid to embrace faith-based approaches that advance our shared goals as Americans.

There is one more step we should take. It is currently common practice for employees at an average company to contribute to a wide range of charities, and have their donations matched by the company up to an annual limit. But rarely are faith-based programs approved for such matches, perhaps because we are just starting to realize the role they are playing. I call on the corporations of America to encourage and match contributions to faith- and values-based organizations. We need to make sure their efforts are recognized and supported, across America.

VII. CONCLUSION

America’s national identity is not shaped solely by Catholic, Protestant, Jewish, Muslim or Hindu traditions. But we are a people who believe that these and other faith traditions contribute to the formation of values with which we agree to live out our common lives together.

I am a Baptist. My faith has always sustained me; I believe in serving God and trying to understand and obey God's will for our lives. That belief is what led me to explore my own faith in Divinity School when I returned from Vietnam. And throughout my life, it has called me to try to deepen my understanding of the human soul, and bring my actions, thoughts, and feelings into harmony with God's will.

I want to create the kind of America where people can practice their faith, and use religious insights to illuminate all the questions our society is asking: how do we respect one another and live in peace and safety in our neighborhoods? How do we preserve and strengthen our families? How do we teach our children to live together? How do we give hope to the hopeless, and help to the helpless? How do we protect the weak – and teach restraint to the strong?

Mother Theresa once said, "Plant the act, reap the habits. Plant the habits, reap the virtue. Plant the virtue, reap the character. Plant the character, reap the destiny."

Religion helps to give our people the character without which a democracy cannot survive.

Through our faith and our best values, we can become an America that is not just better off, but better. And in so doing, we can serve as I believe God meant us to -- as a light to this ever-shrinking world. Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-MAY-1999 19:05:28.00

SUBJECT: Re: racial profiling

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

READ:UNKNOWN

TEXT:

this is really unbelievable.

----- Forwarded by Elena Kagan/OPD/EOP on 05/24/99 07:08 PM -----

Todd Stern

05/24/99 01:55:34 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Re: racial profiling

fyi

----- Forwarded by Todd Stern/WHO/EOP on 05/24/99 01:55 PM -----

Charles F. Ruff

05/23/99 12:51:36 PM

Record Type: Record

To: Todd Stern/WHO/EOP@EOP

cc: Maria Echaveste/WHO/EOP@EOP

Subject: Re: racial profiling

Having spent a few days trying to draft an appropriate introduction to the Executive Order, I discussed with Maria on Friday what I hope will be the solution to the problem. Early in the week, Eric Holder is meeting with INS to determine whether there is any real need for the "INS exception" to an absolute ban on racial profiling. Assuming that the answer is "no," we should then be able to stake out for the President the same firm position already publicly adopted by the Vice President and the Attorney General.

Clinton Presidential Records Automated Records Management System [EMAIL]

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Hex Dump file is not in a recognizable format, has been incorrectly decoded or is damaged.

File Name: p_95431581_opd_html_1.msoff

Attachment Number: [ATTACH.D77]ARMS22851345A.136

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005. email	Elena Kagan to Karen Tramontano and Bruce Reed re: Profiling (1 page)	05/24/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[05/11/1999-05/26/1999]

2009-1006-F

bm112

RESTRICTION CODES

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

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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:24-MAY-1999 11:46:55.00

SUBJECT: Re: racial profiling

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

TEXT:

did chuck send you a response to this that I'm missing?

----- Forwarded by Elena Kagan/OPD/EOP on 05/24/99 11:49 AM -----

Maria Echaveste
05/24/99 09:49:31 AM
Record Type: Record

To: Todd Stern/WHO/EOP
cc: Charles F. Ruff/WHO/EOP, Edley @ law.harvard.edu @inet, Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP
bcc:
Subject: Re: racial profiling

Actually--I would assume we would still want data collection exec order but it would begin with a strong statement along the lines chuck is talking about. Is that right Chuck? elena?

Todd Stern
05/24/99 08:42:52 AM
Record Type: Record

To: Charles F. Ruff/WHO/EOP@EOP
cc: maria echaveste/who/eop@eop
Subject: Re: racial profiling

Assuming that were to happen, would you still envision a data collection Executive Order, or would that become moot? tds

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-MAY-1999 11:48:44.00

SUBJECT: racial profiling

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

READ:UNKNOWN

TEXT:

fyi. I think chuck sent todd some kind of response without cc'ing us. I just asked todd for it. ----- Forwarded by Elena Kagan/OPD/EOP on 05/24/99 11:50 AM -----

Todd Stern

05/23/99 12:07:00 PM

Record Type: Record

To: Charles F. Ruff/WHO/EOP

cc: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP

Subject: racial profiling

I never saw language of the sort you were talking about drafting for the proposed Executive Order following the meeting on Monday. Have you done that or not yet? If you have, could I get a copy? tds

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-MAY-1999 08:23:39.00

SUBJECT: Food Stamp Waiver

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

TEXT:

could you respond?

----- Forwarded by Elena Kagan/OPD/EOP on 05/24/99 08:26
AM -----

Karen Tramontano
05/22/99 02:39:53 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc:
Subject: Food Stamp Waiver

Tom Barrett, D, Wisc wrote to John about a pending food stamp waiver by the state of wisconsin to privatize the system -- I think this has been pending for a while. Barrett is very concerned about the impact of priviatization. I tried to follow-up w/ the USDA but was unable to locate the right person -- would you either tell me who I should call -- or if easier let me know the status --- thanks. appreciate your help

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-MAY-1999 08:24:15.00

SUBJECT: Sorry... minor edit to press paper

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

TEXT:

please print out all press paper.

----- Forwarded by Elena Kagan/OPD/EOP on 05/24/99 08:27
AM -----

Karin Kullman

05/22/99 01:32:09 PM

Record Type: Record

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

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

Subject: Sorry... minor edit to press paper

Message Sent

To: _____

Barry J. Toiv/WHO/EOP

Joseph P. Lockhart/WHO/EOP

Jennifer M. Palmieri/WHO/EOP

Nanda Chitre/WHO/EOP

Elizabeth R. Newman/WHO/EOP

Beverly J. Barnes/WHO/EOP

Linda Ricci/OMB/EOP

Dag Vega/WHO/EOP

Julia M. Payne/WHO/EOP

Jason H. Schechter/WHO/EOP

Sarah E. Gegenheimer/WHO/EOP

Julie B. Goldberg/WHO/EOP

Melissa G. Green/OPD/EOP

Heather M. Riley/WHO/EOP

Megan C. Moloney/WHO/EOP

Julianne B. Corbett/WHO/EOP

Richard L. Siewert/WHO/EOP

Karin Kullman/OPD/EOP

Mark D. Neschis/WHO/EOP

Erica S. Lepping/WHO/EOP

Alejandro G. Cabrera/OVP @ OVP

Melissa B. Ratcliff/OVP @ OVP

Deborah Akel/WHO/EOP

Message Copied

To: _____

Elena Kagan/OPD/EOP

Bruce N. Reed/OPD/EOP

Laura Emmett/WHO/EOP

Cathy R. Mays/OPD/EOP

**PRESIDENT CLINTON: HELPING PARENTS
MEET THEIR RESPONSIBILITIES AT HOME AND AT WORK**

May 23, 1999

Today, in a commencement speech at Grambling State University, President Clinton announced new steps to help workers meet their responsibilities to their jobs, and their more important responsibilities to their families. The President put forward two new proposals to make leave more affordable for American workers. In addition, he released a new report that examines the "time crunch" that parents increasingly feel as they struggle to balance their responsibilities at home and at work.

Working to Make Parental Leave More Affordable. A 1996 study by the Commission on Family and Medical Leave found that loss of wages was the most significant barrier to parents taking advantage of unpaid leave following the birth or adoption of a child. Today, President Clinton directed the Secretary of Labor to propose new regulations and model state legislation to enable states to develop innovative ways of using the Unemployment Insurance (UI) system to support parents taking leave to care for a newborn or adopted child. Several States recently have asked the Administration whether they could use the UI system for this purpose consistent with federal law. The new regulations will authorize this expansion of the UI system, thereby allowing states that wish to use unemployment insurance to assist new parents to put their plans into effect.

Enabling Federal Workers to Take Paid Leave to Care for Sick Family Members. In an effort to set an example for all employers, President Clinton also today directed the Office of Personnel Management (OPM) to revise its government-wide regulations to allow federal employees to use up to 12 weeks of accrued sick leave each year to care for a spouse, son, daughter, or parent with a "serious health condition," as that term is defined for the purpose of applying the Family and Medical Leave Act. Currently, the amount of sick leave that can be used to care for a family member who is ill is limited to 13 days each year for most federal employees. By enabling federal workers to use more of the sick leave they have earned, according to conditions established by the FMLA, this measure will remove a significant barrier to caring for an ill family member. The President also has directed the OPM to establish an Interagency Family Friendly Workplace Working Group to develop, promote, and evaluate federal family-friendly workplace initiatives. The President previously has taken other actions to ensure that federal government is a model employer, including: allowing federal employees to donate annual leave to other employees; expanding flexible family-friendly work arrangements, such as job sharing, career part-time employment, alternative work schedules, telecommuting, and satellite work locations; and directing improvements in the quality of federally sponsored child care.

A New Study on the Amount of Time Available for Families. The President released a report by his Council of Economic Advisers (CEA) today that details the factors that have led to decreased amounts of time available for parents to spend with their children. The report, *Families and the Labor Market, 1969-1999: Analyzing the "Time Crunch,"* demonstrates that the increase in hours mothers spend in paid work, combined with the shift toward single-parent families, has resulted in families experiencing an average decrease of 22 hours a week (14

percent) in time that parents spend with their children. The report concludes that the increased time at work among parents requires policy-makers to seek new ways to promote strong families, including greater flexibility in paid work hours, more affordable child care, better support for families with low-wage earning parents, and methods for encouraging two-parent families to form and stay together.

Advancing An Agenda To Help Parents Balance Their Responsibilities At Home And At Work. In his balanced budget request, the President put forward a bold agenda to provide families with greater tools to meet their responsibilities at home and at work. This agenda includes: an historic initiative to make child care better, safer, and more affordable for working families; a tripling of our investment in after-school programs through the 21st Century Community Learning Center program; a new tax credit to help Americans struggling with long-term care costs; and proposals to expand the Family and Medical Leave law to cover more workers and allow leave for more parental activities, including parent-teacher conferences and routine doctor's visits.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-MAY-1999 19:06:07.00

SUBJECT: Re: racial profiling

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

READ:UNKNOWN

TEXT:

but another...

----- Forwarded by Elena Kagan/OPD/EOP on 05/24/99 07:08 PM -----

Todd Stern

05/24/99 01:55:46 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Re: racial profiling

fyi

----- Forwarded by Todd Stern/WHO/EOP on 05/24/99 01:55 PM -----

Charles F. Ruff

05/24/99 08:48:36 AM

Record Type: Record

To: Todd Stern/WHO/EOP@EOP

cc:

Subject: Re: racial profiling

We would definitely issue a data collection order; all that would change would be the introduction.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:25-MAY-1999 16:46:06.00

SUBJECT: RECEIVED: LRM OGG2 - - LABOR Qs and As on S___ Small Miner Advocacy Review Panel

TO: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

LRM OGG2 - - LABOR Qs and As on S___ Small Miner Advocacy Review Panel Act
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/25/99 04:48:48 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:25-MAY-1999 19:42:08.00

SUBJECT: Cheri Carter's farewell

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

TEXT:

pls schedule

----- Forwarded by Elena Kagan/OPD/EOP on 05/25/99 07:45
PM -----

Deborah B. Mohile

05/25/99 05:32:07 PM

Record Type: Non-Record

To: See the distribution list at the bottom of this message
cc: mehunker @ opm.gov
Subject: Cheri Carter's farewell

Please join us to wish Cheri Carter a fond farewell as she leaves us
for sunny Los Angeles
to be the C.O.O. of the
2000 Convention Host Committee
(start groveling for credentials now!).

Thursday, June 3, 1999

5:30 pm

Indian Treaty Room

Old Executive Office Building

Please pass this on to other FOCs we may have inadvertently skipped and
delete this message when you no longer need it.

Message Sent

To: _____

Antony J. Blinken/NSC/EOP

Glyn T. Davies/NSC/EOP

Matt Gobush/NSC/EOP

Brenda I. Hilliard/NSC/EOP

Lindsey E. Huff/NSC/EOP

LEAVY_D @ A1@CD@VAXGTWY @ EOP

Brian A. Barreto/OPD/EOP

Lael Brainard/OPD/EOP

Thomas L. Freedman/OPD/EOP

Melissa G. Green/OPD/EOP

Elena Kagan/OPD/EOP

Karin Kullman/OPD/EOP

Ruby Shamir/OPD/EOP

Mary L. Smith/OPD/EOP

Gene B. Sperling/OPD/EOP

Brenda M. Anders/WHO/EOP

Virginia Apuzzo/WHO/EOP

Robin J. Bachman/WHO/EOP
Kris M Balderston/WHO/EOP
Douglas J. Band/WHO/EOP
Beverly J. Barnes/WHO/EOP
Leslie Bernstein/WHO/EOP
Todd A. Bledsoe/WHO/EOP
Sidney Blumenthal/WHO/EOP
Jocelyn A. Bucaro/WHO/EOP
Katharine Button/WHO/EOP
Mary E. Cahill/WHO/EOP
Dominique L. Cano/WHO/EOP
George G. Caudill/WHO/EOP
Betty W. Currie/WHO/EOP
Lynn G. Cutler/WHO/EOP
Laura K. Demeo/WHO/EOP
Jackson T. Dunn/WHO/EOP
Fred DuVal/WHO/EOP
Maria Echaveste/WHO/EOP
Timothy W. Emrich/WHO/EOP
Paul K. Engskov/WHO/EOP
Sharon Farmer/WHO/EOP
Bronson J. Frick/WHO/EOP
Sharon K. Gill/WHO/EOP
Laura A. Graham/WHO/EOP
Kirk T. Hanlin/WHO/EOP
Nancy V. Hernreich/WHO/EOP
Mickey Ibarra/WHO/EOP
Thomas D. Janenda/WHO/EOP
Cynthia M. Jasso-Rotunno/WHO/EOP
Robert B. Johnson/WHO/EOP
Katherine D. Kincaid/WHO/EOP
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Robin Leeds/WHO/EOP
Bridget T. Leininger/WHO/EOP
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Ann F. Lewis/WHO/EOP
Tania I. Lopez/WHO/EOP
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Heather M. Marabeti/WHO/EOP
Laura S. Marcus/WHO/EOP
Thurgood Marshall Jr/WHO/EOP
Capricia P. Marshall/WHO/EOP
Andrew J. Mayock/WHO/EOP
Kelli R. McClure/WHO/EOP
Anne E. McGuire/WHO/EOP
Cheryl D. Mills/WHO/EOP
Linda L. Moore/WHO/EOP
Minyon Moore/WHO/EOP
Mary Morrison/WHO/EOP
Janet Murguia/WHO/EOP
Melissa M. Murray/WHO/EOP
Bob J. Nash/WHO/EOP
Kelley L. O'Dell/WHO/EOP
Jennifer M. Palmieri/WHO/EOP
Simeona F. Pasquil/WHO/EOP
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Skye S. Philbrick/WHO/EOP
John Podesta/WHO/EOP
Joseph D. Ratner/WHO/EOP
Steve Ricchetti/WHO/EOP
Maritza Rivera/WHO/EOP

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Marsha Scott/WHO/EOP
Sondra L. Seba/WHO/EOP
Maureen T. Shea/WHO/EOP
Dawn L. Smalls/WHO/EOP
Richard Socarides/WHO/EOP
Patricia Solis-Doyle/WHO/EOP
Douglas B. Sosnik/WHO/EOP
Maria E. Soto/WHO/EOP
Aviva Steinberg/WHO/EOP
Todd Stern/WHO/EOP
Stephanie S. Streett/WHO/EOP
Neera Tanden/WHO/EOP
Marjorie Tarmey/WHO/EOP
Barry J. Toiv/WHO/EOP
Karen Tramontano/WHO/EOP
June G. Turner/WHO/EOP
Rebecca L. Walldorff/WHO/EOP
William H. White Jr./WHO/EOP
Kim B. Widdess/WHO/EOP
Cecily C. Williams/WHO/EOP
Barbara D. Woolley/WHO/EOP
Carolyn T. Wu/WHO/EOP
Jonathan M. Young/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:25-MAY-1999 09:41:23.00

SUBJECT: Re: Racial Profiling

TO: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

what did he say?

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME: 25-MAY-1999 07:53:55.00

SUBJECT: RECEIVED: 9:15AM Tues DEADLINE -- Final draft House Floor SAP for H.R. 1906 -- Ag

TO: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP [OMB])

READ: UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

9:15AM Tues DEADLINE -- Final draft House Floor SAP for H.R. 1906 -- Ag/Rural Development,
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/25/99 07:56:37 AM

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. email	Elena Kagan to Einer Elhauge re: Support (1 page)	05/26/1999	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[05/11/1999-05/26/1999]

2009-1006-F
bm112

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]