

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 010 - FOLDER 001

[7/14/1995 - 9/26/1995]



Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Todd Stern. Subject: Re: HI!! (1 page)	07/16/1995	Personal Misfile
002. email	Elena Kagan to Bruce Reed at 10:30:39.86. Subject: Congratulations (1 page)	07/24/1995	Personal Misfile
003. email	Elena Kagan to James Castello. Subject: work assignments (1 page)	07/24/1995	P6/b(6)
004. email	Elena Kagan to Gene Sperling. Subject: Dinner (1 page)	07/24/1995	Personal Misfile
005. email	Elena Kagan to Bruce Reed at 11:47:58.71. Subject: Congratulations (1 page)	07/24/1995	Personal Misfile
006. email	Elena Kagan to Bruce Reed. Subject: lunch (1 page)	07/31/1995	P6/b(6)
007. email	Elena Kagan to James Castello. Subject: [Party] (1 page)	08/04/1995	Personal Misfile
008. email	Elena Kagan to Gene Sperling. Subject: Just so you know [partial] (1 page)	08/07/1995	P6/b(6)
009. email	Elena Kagan to Christopher Cerf. Subject: lunch (1 page)	08/10/1995	Personal Misfile
010. email	Elena Kagan to Jon Yarowsky. Subject: militias [partial] (1 page)	08/11/1995	P6/b(6)
011. email	Elena Kagan to Todd Stern. Subject: dinner (1 page)	08/16/1995	Personal Misfile
012. email	Elena Kagan to Todd Stern. Subject: dinner (1 page)	08/28/1995	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

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]
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RR. Document will be reviewed upon request.

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013. email	Elena Kagan to Todd Stern. Subject: [position] (1 page)	08/31/1995	P2
014. email	Elena Kagan to Elena Kagan. Subject: Appt. request - Cohn, Debra and others [partial] (1 page)	09/15/1995	P6/b(6)
015. email	Elena Kagan to David Fein. Subject: lunch (1 page)	09/20/1995	Personal Misfile

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-JUL-1995 15:27:31.45

SUBJECT: brunch

TO: James Castello (CASTELLO_J) (WHO)

READ:14-JUL-1995 15:56:00.09

TEXT:

Did you once tell me that you were having a brunch on Sunday for the staff? Is that stil on? If so, when and where? Am I using e-mail correctly?

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-JUL-1995 15:37:00.71

SUBJECT: Mouse pad

TO: Marna E. Madsen

(MADSEN_M) (WHO)

READ:14-JUL-1995 16:15:16.30

TEXT:

Is there someplace I can get a mouse pad?

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:16-JUL-1995 16:09:29.81

SUBJECT: Citation

TO: Cheryl D. Mills

(MILLS_C) (WHO)

READ:17-JUL-1995 14:05:43.65

TEXT:

That's at JR 126-27.

Withdrawal/Redaction Marker

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:16-JUL-1995 16:08:12.59

SUBJECT: New entry

TO: Cheryl D. Mills

(MILLS_C) (WHO)

READ:17-JUL-1995 14:05:25.49

TEXT:

Cheryl: I missed this the first time around: On March 1: Sessions and POTUS discuss the Bureau's proposed strategy for handling the crisis. Sessions described it as a "waiting" strategy, under which the FBI would negotiate, watch, and contain.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:17-JUL-1995 15:41:00.00

SUBJECT: Receipt Notification

TO: MILLS_C (WHO)

READ:17-JUL-1995 15:42:01.83

TEXT:

This is a Read Receipt Notification for:

Message Title: Per your request
Addressee: KAGAN_E
Date Sent: 17-Jul-1995 03:38pm
Date Read: 17-Jul-1995 03:41pm

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:17-JUL-1995 19:53:38.06

SUBJECT: Lawrence subpoena

TO: Cheryl D. Mills (MILLS_C) (WHO)

READ:18-JUL-1995 07:51:06.09

TEXT:

Melissa mentioned to me (I am ashamed to say several days ago) that in addition to the people listed on the document request you prepared, you were going to send the request to several former employees who might have files relating to Lawrence (who, you might have seen, made Al Kamen's column this morning on an unrelated matter!) Who else should I send the request to?

Also, I take it from what Terry Henry told me when we spoke that we haven't yet received a valid subpoena. Is that right?

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:17-JUL-1995 14:38:11.36

SUBJECT: abortion memo

TO: James Castello

(CASTELLO_J) (WHO)

READ:17-JUL-1995 15:57:00.67

TEXT:

After you left, George asked that a draft of the decision memo be circulated; after the meeting, he said that meant to Rasco, Rovlin, Griffin, and him. It seems to me that the way to go is to recommend that the President reject the bill because (1) it does not include an exception for the health of the mother, and (2) (not stressed as much) because it may apply to abortions that are done prior to the last trimester and prior to viability. It sounds as if what George wants is for the President to take an up-front position that if narrowed in these two ways, he would support it. (We should make clear because George didn't seem to understand it, that such a bill would prevent abortions in cases of fetal deformity.) As we've discussed, I think it would be hard to argue that such a position is unconstitutional (i.e., I think OLC's third argument is weak). The question that the participants in the meeting didn't really focus on is: what happens if the health exception is included, but the bill continues to apply to pre-viability as well as post-viability abortions? As a legal matter, the question here has to do with whether this an undue burden. A certain answer to this question would require lots of facts we don't know, having to do with the circumstances in which this procedure could (or could not) be replaced by other procedures; my hunch, though, is that the undue burden argument would be a stretch.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-JUL-1995 12:03:40.92

SUBJECT: Dingell phone call

TO: Abner J. Mikva (MIKVA_A) (WHO)

READ:21-JUL-1995 19:09:02.03

TEXT:

I gave Cheri talking points. This is just to let you know that I just had a conversation with Don Beattie, Dingell's legislative director, in which I said basically what the talking points say and told him that you would be calling Dingell.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-JUL-1995 12:13:22.73

SUBJECT: Dingell

TO: Jon Yarowsky

(YAROWSKY_J) (WHO)

READ:18-JUL-1995 13:20:28.51

TEXT:

Just to let you know that I think I had a good and conciliatory conversation with Don Beattie (to whom Alan Roth referred me and who seems like a very nice guy).

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-JUL-1995 17:33:29.88

SUBJECT: MINING ACT

TO: Abner J. Mikva (MIKVA_A) (WHO)

READ:21-JUL-1995 19:09:22.03

TEXT:

Let me know when you want to talk about this. It sounds really interesting.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-JUL-1995 18:47:22.49

SUBJECT: RE: Memo from Carol Rasco Attached

TO: James Castello (CASTELLO_J) (WHO)

READ:18-JUL-1995 18:50:24.90

TEXT:

congratulations! One down, three (?) to go.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-JUL-1995 15:43:04.98

SUBJECT: RE: Misc. Information

TO: Marna E. Madsen (MADSEN_M) (WHO)

READ:18-JUL-1995 15:48:33.42

TEXT:

The manual they use for training is fine.

The parking pass has not yet turned up. I'll keep looking.

Thanks.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-JUL-1995 11:20:45.48

SUBJECT: speaking invitations

TO: Abner J. Mikva

(MIKVA_A) (WHO)

READ:21-JUL-1995 19:08:34.08

TEXT:

I'm sitting on a number of speaking invitations -- everything from the Sidley & Austin Summer Associate Speakers Program to a libel conference sponsored by the Libel Defense Resource Center and the Newspaper Association of America to a couple of academic conferences. Are there any rules associated with such things if I don't take money and make clear that views expressed are only my own? Are there any procedures I need to follow to get appearances approved? etc.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:20-JUL-1995 08:17:29.01

SUBJECT: abortion memo

TO: James Castello

(CASTELLO_J) (WHO)

READ:20-JUL-1995 09:22:47.15

TEXT:

Sorry I didn't get back to you; I was at the Waco hearing all day (and night). I actually think the old paragraph was better. Here's why. (1) Even under Roe, I do not think courts would have automatically equated fetal deformities with harm to maternal health. (2) The Schroeder bill also does not equate the two. It seems to apply only when fetal deformity itself endangers women's health; perhaps there is a presumption that this will always be the case, but this presumption is not spelled out. (3) Related to the above but more generally, I think in this paragraph you equate the two too much. For some women, all fetal deformities will pose a threat to maternal health; for other women, some will; for other women, none will. I don't think any court, now or before Casey, automatically would have equated the two.
What have other people said about the memo generally?

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-JUL-1995 08:38:37.92

SUBJECT: RE: Choice Meeting Rescheduled

TO: Ian R. Van Praagh (VANPRAAGH_I) (OPD)

READ:21-JUL-1995 09:03:42.88

TEXT:

I probably won't be able to make the meeting, though I'll try. Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:21-JUL-1995 08:40:00.00

SUBJECT: Receipt Notification

TO: CASTELLO_J (WHO)

READ:21-JUL-1995 10:20:32.37

TEXT:

This is a Read Receipt Notification for:

Message Title: Revised Partial Birth Abortion Memo
Addressee: KAGAN_E
Date Sent: 20-Jul-1995 05:20pm
Date Read: 21-Jul-1995 08:40am

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-JUL-1995 10:53:25.97

SUBJECT: Early-evening testimony

TO: Jon Yarowsky (YAROWSKY_J) (WHO)
READ:27-JUL-1995 12:46:25.28

TO: Cheryl D. Mills (MILLS_C) (WHO)
READ:22-JUL-1995 13:21:26.20

TEXT:

Late in the day, BD lawyer Evans, in response to a question by McCullum, noted Jahn's testimony that certain tapes reveal that the BDs were spreading fuel and preparing to set a fire as the gas was coming in. Evans said Jahn's description of the tapes was accurate and then asked why the FBI agents on the scene didn't hear the same thing (and if they did hear it, why they didn't react to it). I had never heard this criticism before. Unless this is a wholly absurd line of attack (and maybe even if it is), I wouldn't be surprised if some Republicans pick up on this in the next few days.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-JUL-1995 10:32:01.14

SUBJECT: Choice meetings

TO: Ian R. Van Praagh

(VANPRAAGH_I) (OPD)

READ:25-JUL-1995 13:29:09.38

TEXT:

Though I missed the last choice meeting (because of the Waco hearings), I'd love to be informed of future meetings. Thanks much.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:25-JUL-1995 10:21:03.85

SUBJECT: Some ideas

TO: Abner J. Mikva

(MIKVA_A) (WHO)

READ:25-JUL-1995 18:49:31.91

TEXT:

So, here are some ideas about how to keep me amused (and also make some good use of me):

1. Now that Chris Edley is leaving (has left?), is there a need for someone to keep on top of the affirmative action issue -- for example, by working with Justice on its review of all affirmative action programs? I know the issue well (because I teach it) and care about it a lot; if there's stuff to do here, I'd love to do it.

2. I note that in addition to the supposed handshake creating a bipartisan commission, the Senate recently approved a resolution to consider campaign finance legislation in this Congress. Is there stuff going on in the White House on this issue? Involving whom? Is there a way for me to get involved?

Of course, if this memo prompts you to come up with other ideas, I'd love to hear them. But I know you have better things to do than sit around all day trying to figure out what I can do with myself. So I just thought I'd give you some ideas of my own.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:26-JUL-1995 10:15:50.60

SUBJECT: Late night session

TO: Jon Yarowsky (YAROWSKY_J) (WHO)
READ:27-JUL-1995 12:48:05.83

TO: Cheryl D. Mills (MILLS_C) (WHO)
READ:26-JUL-1995 19:10:46.77

TO: John Tanner (TANNER_J) (WHO)
READ:26-JUL-1995 10:25:06.98

TEXT:

A quick summary of yesterday's late night session. The two religious experts made the case that Koresh was coming out soon, that a major breakthrough had occurred on the 14th, etc. This testimony fit with the two lawyers' testimony earlier in the day, and allowed Republicans to press the case that if only the FBI had waited, all would have ended well. The implication was that people in Washington (exactly who was never made clear) made the decision to go forward without knowing what those closer to the situation knew: that a corner had been turned in the negotiations with Koresh.

The questioning of the Rangers was uneventful. They effectively defused the controversy surrounding their conversations with Noble, in part by pointing out that they had equally detailed conversations with Republican staff members, in part by looking incorruptible. They criticized some aspects of the operation and supported others; in general, no one got very much out of them. All the members participated in a kind of contest as to who could suck up to them (the Rangers) more.

MOST IMPORTANT: At one point, out of the blue, Buyer stated the following theory: In April 1993, a new administration was going through some rough times -- on both the domestic and foreign policy scenes. That administration, in a panic over its falling poll numbers, determined to use Waco as an opportunity to "do something" (i.e., anything), in an effort to look decisive and presidential.

In its effort to appear strong, the administration ignored the counsel of those on the ground etc. In response, Congressman Green rebuked Buyer for making allegations with no real basis. (Among other things, Green noted that Pres Clinton would be grateful now for the approval ratings he had in the spring of 1993.)

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:28-JUL-1995 19:16:14.53

SUBJECT: executive order

TO: James Castello (CASTELLO_J) (WHO)

READ:31-JUL-1995 09:40:01.79

TEXT:

Gene said something to me about an executive order he had discussed with you.
Does that still need to be done, or has it been assigned already?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:28-JUL-1995 19:11:00.00

SUBJECT: Receipt Notification

TO: MILLS_C (WHO)

READ:30-JUL-1995 16:09:18.72

TEXT:

This is a Read Receipt Notification for:

Message Title: Sky Page
Addressee: KAGAN_E
Date Sent: 28-Jul-1995 07:06pm
Date Read: 28-Jul-1995 07:11pm

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:28-JUL-1995 09:59:47.14

SUBJECT: Letters to Wlson and Davis

TO: Abner J. Mikva

(MIKVA_A) (WHO)

READ:29-JUL-1995 10:20:14.21

TEXT:

As you no doubt know by now, the letter to Davis ended up going to Wilson as well. Because of that decision, which Barry Toiv informed me of, I took out some of the stuff early on that referred specifically to Davis. Toiv put in the phrase "in order to apply with all applicable law." Emerson added the sentence saying that the Chief of Staff had instructed you to work with the UC system in solving any problems. (James and I discussed paging you on the golf course for this and decided not to.) Panetta read it and much to Toiv's surprise, changed nothing. I think I do a fairly good Abner J. Mikva signature.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:31-JUL-1995 13:06:08.17

SUBJECT: RE: Choice/Communications Meeting

TO: Ian R. Van Praagh (VANPRAAGH_I) (OPD)

READ:31-JUL-1995 13:06:58.91

TEXT:

yes, i'll be there.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME:31-JUL-1995 08:37:00.00

SUBJECT: Receipt Notification

TO: MILLS_C (WHO)

READ:31-JUL-1995 09:59:23.35

TEXT:

This is a Read Receipt Notification for:

Message Title: Reminder
Addressee: KAGAN_E
Date Sent: 30-Jul-1995 04:12pm
Date Read: 31-Jul-1995 08:37am

Withdrawal/Redaction Marker Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. email	Elena Kagan to Bruce Reed. Subject: lunch (1 page)	07/31/1995	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Recods Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:31-JUL-1995 18:22:57.90

SUBJECT: exec order

TO: Gene B. Sperling

(SPERLING_G) Autoforward to: Elena R. Mccoy

READ:31-JUL-1995 18:56:39.68

TEXT:

James tells me he asked an OLC lawyer to work with you on your executive order. If that's more than enough legal advice for you, that's fine with me. On the other hand, if you want some more, that would be great with me too. (Just let me know what you're doing, when you're meeting, and what I should be reading.) I guess, more generally, I'd love for you to keep me in mind and get me involved in some interesting things. Whether it's this or something else (or this and something else), I'll leave to you. Talk to you soon.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-AUG-1995 15:21:18.83

SUBJECT: RE: Choice/Communicxations Meeting

TO: Ian R. Van Praagh (VANPRAAGH_I) (OPD)

READ: 1-AUG-1995 16:35:46.34

TEXT:

the answer's still yes.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-AUG-1995 16:24:17.65

SUBJECT: RE: General Announcements, Reminders

TO: Marna E. Madsen (MADSEN_M) (WHO)

READ: 1-AUG-1995 16:30:33.03

TEXT:

yes, i can come

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 1-AUG-1995 18:45:10.15

SUBJECT: Congratulations!

TO: Cheryl D. Mills

(MILLS_C) (WHO)

READ: 2-AUG-1995 11:03:48.93

TEXT:

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 2-AUG-1995 09:55:12.67

SUBJECT: ypu were right

TO: Todd Stern (STERN_T) (WHO)

READ: 2-AUG-1995 10:02:05.12

TEXT:

In case you ever doubted your own political judgment, see p. 16 of this week's Time magazine.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 3-AUG-1995 19:21:58.90

SUBJECT: executive order

TO: Gene B. Sperling

(SPERLING_G) Autoforward to: Elena R. Mccoy

READ: 4-AUG-1995 08:44:27.58

TEXT:

FYI: This executive order needs a fair bit of work. The biggest problem is that there isn't right now a legally sufficient basis for the order stated in the introductory section. That section talks a lot about how the order promotes health and safety and improves the environment, all of which is very nice but legally irrelevant (or at least incomplete). There's very little discussion of what there should be discussion of: how the order relates (whether through health and safety effects or otherwise) to the procurement process and the efficiency of governmental contracting. In addition, the enforcement mechanisms in the order raise some questions. But not to worry: we're on the case.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007. email	Elena Kagan to James Castello. Subject: [Party] (1 page)	08/04/1995	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 4-AUG-1995 10:28:32.71

SUBJECT: Practice makes perfect.

TO: James Castello (CASTELLO_J) (WHO)

READ: 4-AUG-1995 11:16:14.38

TEXT:

Great introduction.

(Lest you think that generosity goes unnoticed...)

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 7-AUG-1995 14:59:00.00

SUBJECT: Receipt Notification

TO: GUSS_K (WHO)

READ: 7-AUG-1995 15:14:21.89

TEXT:

This is a Read Receipt Notification for:

Message Title: Here is draft q & a. Pls. advise. Thanks!
Addressee: KAGAN_E
Date Sent: 07-Aug-1995 02:52pm
Date Read: 07-Aug-1995 02:59pm

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
008. email	Elena Kagan to Gene Sperling. Subject: Just so you know [partial] (1 page)	08/07/1995	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

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)]

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- 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(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 7-AUG-1995 17:44:12.93

SUBJECT: Just so you know

TO: Gene B. Sperling (SPERLING_G) Autoforward to: Elena R. Mccoy

READ: 7-AUG-1995 18:03:53.03

TEXT:

1. I referred an AP reporter (Ron Fournier) to you whom Ab had referred to me. I decided that I didn't know enough about where this exec order was going to answer any questions about it. Of course you might not know enough either, but that's now your problem.

P6/(b)(6)

[008]

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 7-AUG-1995 15:09:25.45

SUBJECT: RE: Here is draft q & a. Pls. advise. Thanks!

TO: Karen R. Guss (GUSS_K) (WHO)

READ: 7-AUG-1995 15:16:03.50

TEXT:

This looks great. Just a couple of comments:

1. The ban in fact does apply pre-viability, so perhaps the language you use ("could apply") is a bit weak -- even though many if not most of d&x abortions are done post-viability.

2. I would add after the word "finally," the following phrase: "I think the bill makes a real mistake in picking and choosing among different kinds of procedures." Then, go to what you say -- "it is a physician's job" etc. -- except instead of just saying "the most medically appropriate method," say "the safest and most medically appropriate method." I'd like to get in something about safety here, and the "picking and choosing" language may make the point a bit more punchy.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 8-AUG-1995 11:01:12.81

SUBJECT: RE: More Admin Stuff

TO: Marna E. Madsen

(MADSEN_M) (WHO)

READ: 8-AUG-1995 11:02:30.10

TEXT:
no tv.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 9-AUG-1995 16:52:01.98

SUBJECT: RE: Vacation Plans - Reminder

TO: Odetta S. Walker

(WALKER_O) (WHO)

READ:10-AUG-1995 08:53:28.60

TEXT:

none that I know of

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 10-AUG-1995 14:53:58.39

SUBJECT: lunch

TO: Christopher D. Cerf (CERF_C) (WHO)

READ: 10-AUG-1995 15:48:31.26

TEXT:

any day next week.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
009. email	Elena Kagan to Christopher Cerf. Subject: lunch (1 page)	08/10/1995	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
kc773

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]
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- 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

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
010. email	Elena Kagan to Jon Yarowsky. Subject: militias [partial] (1 page)	08/11/1995	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Recods Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

RESTRICTION CODES

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

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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 (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 11-AUG-1995 16:45:15.42

SUBJECT: militias

TO: Jon Yarowsky (YAROWSKY_J) (WHO)

READ: 18-AUG-1995 10:48:47.21

TEXT:

Ben Chevat called me; I take it he's been trying to reach you too. We tentatively agreed to get together sometime Tues or Wed to talk about militia stuff. (I think Tom will be on vacation.) He said they have some ideas, which he "thinks we'll like" -- but that we have to "work out the politics of the thing."

P6(b)(6)

P6(b)(6)

[010]

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 11-AUG-1995 10:40:26.59

SUBJECT: abortion one-pager

TO: Karen R. Guss

(GUSS_K) (WHO)

READ: 11-AUG-1995 10:47:47.97

TEXT:

Looks great to me.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-AUG-1995 13:48:59.60

SUBJECT: RE: Choice Meeting

TO: Ian R. Van Praagh

(. VANPRAAGH_I) (OPD)

READ:14-AUG-1995 14:05:29.02

TEXT:

yes, i'll be there.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:16-AUG-1995 10:21:41.45

SUBJECT: TWO THINGS

TO: Cheryl D. Mills

(MILLS_C) (WHO)

READ:16-AUG-1995 11:09:40.48

TEXT:

1. WANT TO HAVE LUNCH TODAY?
2. HOW ABOUT THAT FUNDRAISER?

Withdrawal/Redaction Marker Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
011. email	Elena Kagan to Todd Stern. Subject: dinner (1 page)	08/16/1995	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

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

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

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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 (ALL-IN-1 MAIL)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:16-AUG-1995 11:17:14.20

SUBJECT: RE: TWO THINGS

TO: Cheryl D. Mills

(MILLS_C) (WHO)

READ:16-AUG-1995 14:18:43.95

TEXT:

Thanks for the legal advice.

Let's say Monday of next week for lunch.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-AUG-1995 11:09:22.50

SUBJECT: two things

TO: James Castello (CASTELLO_J) (WHO)

READ:22-AUG-1995 11:14:46.13

TEXT:

Re the Guss fax: what legal opinion from HHS?

Re Ruby Ridge: John is unreachable until this afternoon. When he calls me back, I'll set up a conference call for later in the afternoon or tomorrow morning.

As for staffing, that is of course your call, and nothing I said was meant to suggest otherwise. Just let me know.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-AUG-1995 11:13:59.55

SUBJECT: and another thing

TO: James Castello (CASTELLO_J) (WHO)

READ:22-AUG-1995 11:14:58.52

TEXT:

Oh, and what's the scoop on Vicky's and my non-existent assistant? Isn't it possible for you to do something from that end (with all the power of your title, etc.) to get us someone?

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 23-AUG-1995 13:57:13.88

SUBJECT: dinner

TO: Todd Stern (STERN_T) (WHO)

READ: 23-AUG-1995 14:22:44.27

TEXT:
when and where?

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:24-AUG-1995 16:16:21.05

SUBJECT: mining patents

TO: T J Glauthier (GLAUTHIER_T) (OMB)
READ:25-AUG-1995 12:33:22.08

TEXT:

I hate being a pest; I'm sure you have tons to do. But I was wondering whether to expect the materials that we discussed on this subject. If not, please let me know.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
012. email	Elena Kagan to Todd Stern. Subject: dinner (1 page)	08/28/1995	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:29-AUG-1995 15:38:57.48

SUBJECT: meeting

TO: Cheryl D. Mills (MILLS_C) (WHO)

READ:29-AUG-1995 16:01:38.84

TO: Jon Yarowsky (YAROWSKY_J) (WHO)

READ:29-AUG-1995 16:29:15.74

TEXT:

With Jon Leibowitz and Vicky Settee at 2:00. I'll get a car.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:30-AUG-1995 16:51:23.35

SUBJECT: social security attorneys' fees provision

TO: Abner J. Mikva (MIKVA_A) (WHO)

READ:31-AUG-1995 08:27:16.84

TEXT:

I talked to Kamarck's chief of staff, who said:

1. The report went to press today;
2. The provision on attorneys fees is "a go"; "it has been discussed with the Vice President and the President many times."

I got the feeling I was not the first person who had raised this issue.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:30-AUG-1995 16:17:04.26

SUBJECT: RE: students

TO: Todd Stern (STERN_T) (WHO)

READ:30-AUG-1995 16:17:11.63

TEXT:

I've talked to one who said she wasn't interested. I've been playing telephone tag with the other. I'll keep at it.

By the by, I did return your call. (It sounds as if you didn't get my message.)

See you tomorrow.

Withdrawal/Redaction Marker Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
013. email	Elena Kagan to Todd Stern. Subject: [position] (1 page)	08/31/1995	P2

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

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]
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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)]

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- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:31-AUG-1995 08:45:22.21

SUBJECT: security briefing

TO: Marna E. Madsen

(MADSEN_M) (WHO)

READ:31-AUG-1995 08:50:15.41

TEXT:

Do you know whether there's a security briefing today? If so, where and what time? Thanks.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 7-SEP-1995 18:41:16.76

SUBJECT: RE: Affirmative action

TO: Barry J. Toiv (TOIV_B) (WHO)

READ: 7-SEP-1995 19:42:28.49

TEXT:

Nancy McFadden didn't get back to me today. I'll give her another call and let you know as soon as I hear anything.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 READ RECEIPT)

CREATOR: KAGAN_E (WHO)

CREATION DATE/TIME: 7-SEP-1995 18:39:00.00

SUBJECT: Receipt Notification

TO: TOIV_B (WHO)

READ: 7-SEP-1995 19:43:08.50

TEXT:

This is a Read Receipt Notification for:

Message Title: Affirmative action
Addressee: KAGAN_E
Date Sent: 07-Sep-1995 06:32pm
Date Read: 07-Sep-1995 06:39pm

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:12-SEP-1995 19:12:15.08

SUBJECT: Testimony

TO: Charles S. Konigsberg (KONIGSBERG_C) (OMB)
READ:12-SEP-1995 19:14:03.60

TEXT:

This looks great. Here are just a couple of comments.

1. On several occasions, you suggest that the "emergency exception" is the only exception to the general rule against obligating the govt in the absence of an appropriation. But as I understand it, there are a couple of others. Most important, activities essential to the President's constitutional role (principally foreign affairs and national security) can go on, even if there is no emergency. In addition, employees responsible for implementing the shutdown and maintaining activities that have multi-year or permanent appropriations may work, again even if there is no emergency situation under the standard used in the OLC memo. This comes up in the last full para on p.3, the first full para on p.4, and the answer to question 4 (although there your phrasing is broader). With respect to the last, sa substantial number of White House employees could be exempt from furlough not because of the emergency exception but because of the executive function exception.
2. Bob Damus, Chris Schrader, and I still have to talk about whether "current law permits furloughed white house employees to volunteer." I take it there is currently some disagreement on the subject.
3. Much less important, the estimates of cost on p.5 implicitly assume that furloughed employees will eventually be paid. Perhaps we should assume that; I just note the assumption.
4. And finally, I take it our answer to question 1 is the same even if Members don't get paid? I have to believe that Members will waive their pay, so that we eventually won't have this line of argument open to us.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-SEP-1995 14:14:24.40

SUBJECT: Testimony

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

READ:13-SEP-1995 14:15:20.17

TEXT:

This is just to let you know that Bob Damus, Chris Shrader, and I did agree today that "current law permits furloughed white house employees to volunteer," as the testimony states.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-SEP-1995 09:35:24.57

SUBJECT: Hatch's comments

TO: Stephen R. Neuwirth (NEUWIRTH_S) (WHO)

READ:13-SEP-1995 09:44:27.63

TEXT:

are also in the In Washington section of USA Today.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:13-SEP-1995 13:46:27.25

SUBJECT: Act 300

TO: Abner J. Mikva (MIKVA_A) (WHO)

READ:13-SEP-1995 19:37:05.81

TEXT:

FYI: This has been taken care of to everyone's satisfaction. Mac has been so informed.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:14-SEP-1995 13:37:59.64

SUBJECT: "special counsel reports"

TO: James Castello

(CASTELLO_J) (WHO)

READ:14-SEP-1995 13:38:48.17

TEXT:

FYI: There's nothing we need to do with respect to the reports of the Office of Special Counsel you sent me this morning.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:15-SEP-1995 15:22:06.73

SUBJECT: RE: Choice Meeting Rescheduled

TO: Ian R. Van Praagh

(VANPRAAGH_I) (OPD)

READ:18-SEP-1995 10:14:07.26

TEXT:

ok with me.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 15-SEP-1995 12:00:44.33

SUBJECT: rr briefing

TO: Jon Yarowsky

(YAROWSKY_J) (WHO)

READ: 15-SEP-1995 13:43:48.62

TEXT:

We're on for 3:00 on Monday in my office.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
014. email	Elena Kagan to Elena Kagan. Subject: Appt. request - Cohn, Debra and others [partial] (1 page)	09/15/1995	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

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]
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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]
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- 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 (WAVES REQUEST)

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:15-SEP-1995 12:07:09.52

SUBJECT: Appt. request - Cohn, Debra and others

TO: Elena Kagan (KAGAN_E) (WHO)

READ:NOT READ

TEXT:

Date: 18-Sep-1995 Appointment with KAGAN, ELENA

Room No. Bldg. Requested by Phone #
125 EOB Elena Kagan 456-7594

Comments:

TIME	VISITOR'S LAST, FIRST NAME		BIRTHDATE	SOC. SEC. #
03:00pm	Cohn	Debra	P6/(b)(6)	- -
03:00pm	Marcus	Kent		- - [014]

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:18-SEP-1995 14:08:56.62

SUBJECT: welfare provision

TO: Abner J. Mikva (MIKVA_A) (WHO)
READ:19-SEP-1995 14:59:51.06

TO: James Castello (CASTELLO_J) (WHO)
READ:18-SEP-1995 14:49:00.53

TEXT:

Teresa Roseborough from OLC called me to say that the Senate welfare bill (you know, the one we said on Saturday we would accept) includes a provision denying benefits to any person who is not a natural-born US citizen (including naturalized US citizens). OLC has opined that the provision is unconstitutional (which seems pretty clear to me). Is there anything we should be doing about this?

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:19-SEP-1995 15:10:12.80

SUBJECT: shutdown

TO: Jodie R. Torkelson

(TORKELSON_J) (WHO)

READ:19-SEP-1995 16:23:10.86

TEXT:

FYI: Last week, Senator Domenici and Congressman Kasich requested Director Rivlin to provide Congress with the shutdown plans of all "Executive Branch agencies." Appearing before the Budget Committees this morning, Rivlin explained that the plans were not ready yet, but indicated that she would provide them soon. The White House plan did not specifically come up, and I suspect no one will press for it. (None of the charts and tables that Rivlin provided to Congress this morning listed the EOP, and no one commented on the exclusion.) But I suppose we should be prepared if Congress, upon receiving all the agency plans, asks for the EOP's as well. Let me know if you have any thoughts about what to do in this event.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:19-SEP-1995 18:21:30.20

SUBJECT: Your religion problem

TO: Stephen R. Neuwirth (NEUWIRTH_S) (WHO)

READ:19-SEP-1995 19:56:34.57

TEXT:

You might want to take a look at a case called Church of Latter Day Saints v. Amos. It's been a long time since I read it, but I believe the Court held that exempting a church from general Title VII requirements was permissible, even though the requirements did not interfere with free exercise. I don't remember the reasoning, but it at least suggests that there's some category of permissible exemptions of religious institutions from generally applicable laws beyond what's strictly speaking necessary to accommodate religious requirements.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:19-SEP-1995 16:53:03.00

SUBJECT: RE: shutdown

TO: Jodie R. Torkelson

(TORKELSON_J) (WHO)

READ:19-SEP-1995 17:16:49.99

TEXT:

I tried to call you to say I was sorry -- I certainly hadn't meant to suggest (though apparently I did) that you weren't completely up-to-date with OMB as to the White House plan. I only thought there might be a question as to whether to provide that plan to Congress, given the lack of specificity in its request. I take it from what you've said that there's not. Again, I'm sorry for the miscommunication.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
015. email	Elena Kagan to David Fein. Subject: lunch (1 page)	09/20/1995	Personal Misfile

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([From Elena Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[07/14/1995 - 9/26/1995]

2009-1006-F
ke773

RESTRICTION CODES

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

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RR. Document will be reviewed upon request.

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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-SEP-1995 16:30:12.83

SUBJECT: RE: lrm 2598

TO: Ingrid M. Schroeder (SCHROEDER_I) (OMB)

READ:21-SEP-1995 16:30:29.41

TEXT:

Actually, no need to send it. I got the last few pages.

Just one question on the testimony: Is there a reason why in several places on pp. 6-7, the testimony makes reference only to race, and not to gender?

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 21-SEP-1995 12:07:21.41

SUBJECT: RE: Draft SAP on HR 1170 - Three Judge Court

TO: Ingrid M. Schroeder (SCHROEDER_I) (OMB)

READ: 21-SEP-1995 12:07:38.40

TEXT:

This looks fine to me.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-SEP-1995 16:08:19.61

SUBJECT: RE: lrm 2598

TO: Ingrid M. Schroeder (SCHROEDER_I) (OMB)
READ:21-SEP-1995 16:13:54.38

TEXT:

If you could just send the last three pages, that would be great. Thanks.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-SEP-1995 16:05:06.53

SUBJECT: lrm 2598

TO: Ingrid M. Schroeder (SCHROEDER_I) (OMB)

READ:21-SEP-1995 16:05:17.22

TEXT:

I seem to be missing some pages of LRM 2598. Mine is cut off at p. 8 of the testimony in the middle of a sentence. Thanks much.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:21-SEP-1995 16:39:43.81

SUBJECT: RE: lrm 2598

TO: Ingrid M. Schroeder (SCHROEDER_I) (OMB)

READ:21-SEP-1995 16:41:42.82

TEXT:

No other comments from me. I don't know whether Chris has seen it. His fax number is different from mine: it's 456-2146. If you want me to check with him or to run over and give him my (now marked-up) copy, just let me know. Thanks.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:22-SEP-1995 15:34:18.83

SUBJECT: RE: out of office for holiday

TO: Stephen R. Neuwirth

(NEUWIRTH_S) (WHO)

READ:22-SEP-1995 15:34:55.38

TEXT:

A good new year.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME: 22-SEP-1995 18:03:23.79

SUBJECT: My home number

TO: Cheryl D. Mills (MILLS_C) (WHO)

READ: 23-SEP-1995 17:30:53.51

TEXT:

is 332-1763. I'll be around for about 15 more minutes. Feel free to call me at home.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:26-SEP-1995 18:24:12.93

SUBJECT: RE: militia memo

TO: Christopher D. Cerf (CERF_C) (WHO)

READ:26-SEP-1995 18:24:21.39

TEXT:

OK. Thanks.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:26-SEP-1995 12:02:59.37

SUBJECT: RE: 318 timber sales/status

TO: Dinah Bear (BEAR_D) (CEQ)

READ:26-SEP-1995 12:20:55.40

TEXT:

Many thanks for the detailed message. I feel entirely up-to-date! Of course, I'd appreciate it if you'd keep letting me know of whatever I should know about. Thanks again.

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

CREATOR: Elena Kagan (KAGAN_E) (WHO)

CREATION DATE/TIME:26-SEP-1995 15:47:08.81

SUBJECT: militia memo

TO: Christopher D. Cerf (CERF_C) (WHO)

READ:26-SEP-1995 16:30:31.26

TEXT:

I meant to ask you whether you've discussed the militia proposal with Jennifer O'Connor in the past week or so. I've had a call into her for some days, and I was wondering whether she hasn't called me because she talked to you instead (which would be perfectly fine with me).