

**Knutte, Caitlin**

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**Subject:** FW: Invitation: White House Update Call  
**Attachments:** image001.png

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**From:** Spillane, Ann M.  
**Sent:** Monday, February 15, 2016 10:18 AM  
**To:** Madigan, Lisa  
**Subject:** Fwd: Invitation: White House Update Call

FYI

Sent from my iPad

Begin forwarded message:

**From:** "Levy, Courtney" <[CLevy@atg.state.il.us](mailto:CLevy@atg.state.il.us)>  
**Date:** February 14, 2016 at 6:26:29 PM CST  
**To:** "Spillane, Ann M." <[aspillane@atg.state.il.us](mailto:aspillane@atg.state.il.us)>  
**Subject:** Fwd: Invitation: White House Update Call

Hi Ann- passing along in case you would like someone to be on the call.

Sent from my iPhone

Begin forwarded message:

**From:** "Ko, Alissa" <[Alissa\\_L\\_Ko@who.eop.gov](mailto:Alissa_L_Ko@who.eop.gov)>  
**Date:** February 14, 2016 at 5:31:36 PM CST  
**To:** Undisclosed recipients;;  
**Subject:** Invitation: White House Update Call



Friends,

We are hosting a conference call **tomorrow (Monday) at 12:45 PM ET** featuring Senior Advisor to the President Valerie Jarrett and Counsel to the President Neil Eggleston. You can read the President's remarks last night on the passing of U.S.

Supreme Court Justice Antonin Scalia here. Please invite the appropriate staff from your office to the conference call.

Please note that this invitation is non-transferrable and intended only for a member of the Attorney General's staff.

The details for tomorrow's call are below.

- **Date:** Monday, February 15
- **Time:** 12:45 PM ET
- **RSVP:** To participate in this conference call, please visit this link, which will give you unique dial-in instructions.
- **Captioning:** To access captioning, please visit this link at the beginning of the call.
- **Additional Information:** This call is off-the-record and not for press purposes.

We look forward to speaking with you soon.

The White House | Office of Public Engagement and Intergovernmental Affairs



**Knutte, Caitlin**

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**Subject:** FW: Talking Points: Supreme Court

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**From:** Spillane, Ann M.  
**Sent:** Monday, February 15, 2016 1:19 PM  
**To:** Madigan, Lisa  
**Subject:** Fwd: Talking Points: Supreme Court

FYI

Sent from my iPad

Begin forwarded message:

**From:** "Mayerson, Asher" <[Asher\\_J\\_Mayerson@who.eop.gov](mailto:Asher_J_Mayerson@who.eop.gov)>  
**Date:** February 15, 2016 at 1:13:52 PM CST  
**To:** Undisclosed recipients;;  
**Subject:** Talking Points: Supreme Court

## SUPREME COURT TALKING POINTS

### Toplines

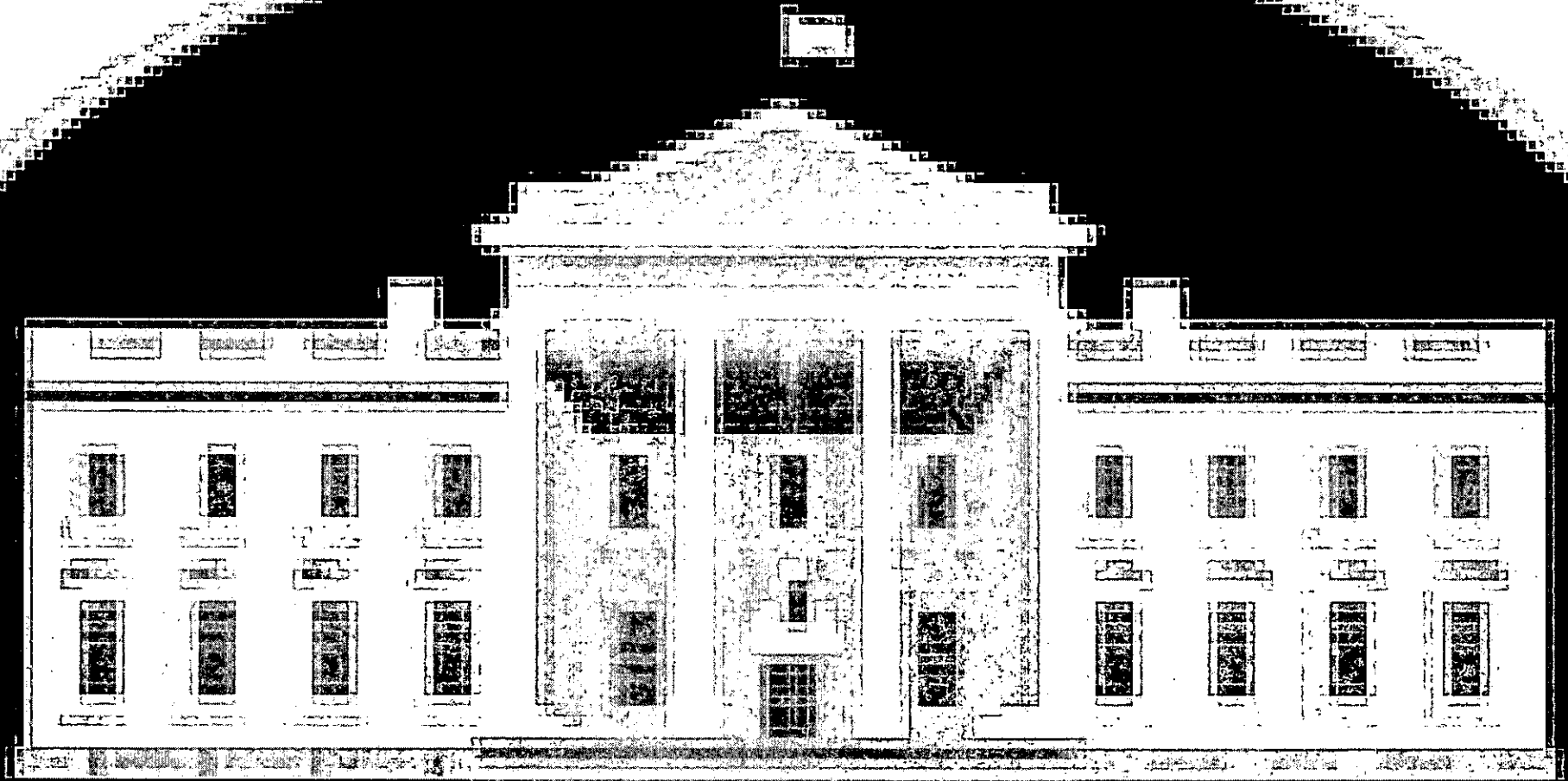
- Yesterday, the President joined the nation in mourning the loss and honoring the life of Justice Scalia. And he personally passed along his condolences to Justice Scalia's son, Eugene.
- The President was clear that he intends to fulfill his constitutional responsibility to nominate a successor to Justice Scalia. He also called on the Senate to fulfill its responsibility to give that person a fair hearing and a timely vote.
- In America, we have one President at a time and Barack Obama has nearly a quarter of his second term ahead of him – more than 11 months.
- As many Republicans have said in the wake of Justice Scalia's passing: Elections have consequences. We agree. That's why the President will do the job that the American people overwhelmingly elected him to do.
- And that's why the Senate should do theirs. In fact, while they are at it, they can get to work on the 39 Federal nominees – including 34 lifetime nominees – who are currently waiting for a Senate vote so they can do their important work for the American people.
- The President takes this responsibility seriously. It's bigger than party or politics. It's about our democracy and the institution to which Justice Scalia dedicated his professional life.
- The President is committed to making sure that institution continues to function as the beacon of justice that our Founders envisioned.

### Evidence

- **The American people expect that the Legislative branch will do its job so that the Judicial branch can do its own.**
  - There is important business in front of the Supreme Court this term.
  - Republicans cannot continue to be the party of “no,” from shutting down the government to threatening not to pay our debts to halting a nomination process before it has even begun.
  - The Senate should fulfill its responsibility to the institution to which Justice Scalia dedicated his professional life and make sure it continues to function as the beacon of justice that our founders envisioned.
  - Doing otherwise is unprecedented and irresponsible.
- **There is plenty of time for Congress to fulfill its responsibility to give the President’s nominee a fair hearing and timely vote.**
  - There is almost a full year – 340 days – before the next President takes office.
  - Since the 1980s, every person appointed to the Court has been given a prompt hearing and vote within 100 days.
    - Justice Kagan – 88 days (confirmed 8/5/2010)
    - Justice Sotomayor – 67 days (confirmed 8/6/2009)
    - Justice Alito – 83 days (confirmed 1/31/2006)
    - Chief Justice Roberts – 63 days (from time nominated to be Associate Justice, confirmed 9/6/2005)
    - Justice Breyer – 74 days (confirmed 7/29/1994)
    - Justice Ginsburg – 51 days (confirmed 8/3/1993)
    - Justice Thomas – 99 days (confirmed 10/15/1991)
    - Justice Souter – 69 days (confirmed 10/2/1990)
    - Justice Kennedy – 65 days (confirmed 2/3/1988)
    - Justice Scalia – 85 days (confirmed on 9/17/1986)
    - Chief Justice Rehnquist – 89 days (confirmed as Chief Justice on 9/17/1986)
    - Justice O’Connor – 33 days (confirmed 9/21/1981)
  - The last four justices, spanning two Administrations, were confirmed in an average of 75 days. And since 1975, the average is 67 days to confirmation.
  - Over the past two decades, even the longest confirmation process took only 99 days. And there are more than 300 days left before the end of the Administration.
- **It would be irresponsible and unprecedented to let a vacancy on the Court extend into 2017.**
  - If Congress fails to act, the Supreme Court will go two terms – well over a year – with a vacancy.

- That would be unprecedented for the modern Supreme Court. Since the 1980s, Congress has almost never left any vacancy during a single Supreme Court session.
- In fact, in that time, there has never been any vacancy spanning more than one term. And never a vacancy longer than 4 months while the Court has been in session.
  - Justice Kagan – 0 days (confirmed before OT2010)
  - Justice Sotomayor – 0 days (confirmed before OT2009)
  - Justice Alito – 119 days (beginning of OT2005 to 1/31/2006)
  - Chief Justice Roberts – 0 days (confirmed before OT2005)
  - Justice Breyer – 0 days (confirmed before OT1994)
  - Justice Ginsburg – 0 days (confirmed before OT1993)
  - Justice Thomas – 8 days (confirmed 10/15/1991)
  - Justice Souter – 0 days (confirmed before OT1990)
  - Justice Kennedy – 122 days (beginning of OT1987 to 2/3/1988)
  - Justice Scalia – 0 days (confirmed before OT1986)
  - Chief Justice Rehnquist – 0 days (confirmed as Chief Justice before OT1986)
  - Justice O'Connor – 0 days (confirmed before OT1981)
- Even counting time the Court has not been in session over that period, a seat has never remained vacant for more than 237 days. And there are more than 237 days left before the end of the Administration.
- **There is clear precedent for confirming a nominee in an election year, even when the Senate is not controlled by the President's party.**
  - Republicans have said that there is no precedent for confirming a Supreme Court nominee during an election year. That is just inaccurate.
  - In fact, six Justices have been confirmed in presidential election years, including three Republican appointees. Another 11 have been confirmed in non-Presidential election years. The most recent was nominated by the Republicans and confirmed by Democrats:
    - **Justice Kennedy, a Reagan appointee, was confirmed by a Democratic-controlled Congress in February 1988, 65 days after his nomination in November 1987.**
    - Justice Murphy was nominated and confirmed by voice vote in January 1940, 12 days after his nomination. (Dem appointee, Dem controlled Congress)
    - Justice Cardozo was nominated and confirmed in February 1932, 9 days after his nomination. (Repub appointee, Repub controlled Congress)
    - Justice Clarke was nominated and confirmed in July 1916, 10 days after his nomination. (Dem appointee, Dem controlled Congress)
    - Justice Brandeis was nominated in January 1916 and confirmed in July 1916, 125 days after his nomination. (Dem appointee, Dem controlled Congress)
    - Justice Pitney was appointed in February 1912 and confirmed in March 1912, 23 days after his nomination. (Repub appointee, Repub controlled Congress)

- And the previous 11 times the Senate confirmed a Supreme Court justice nominated by a president of the opposite party, it's been Democrats confirming a Republican nominee.
  - Justice Clarence Thomas, confirmed in 1991
  - Justice David Souter, confirmed in 1990
  - Justice Anthony Kennedy, confirmed in 1988
  - Justice John Paul Stevens, confirmed in 1975
  - Justice William Rehnquist, confirmed in 1971
  - Justice Lewis Powell, confirmed in 1971
  - Justice Harry Blackmun, confirmed in 1970
  - Chief Justice Warren Burger, confirmed in 1969
  - Justice Charles Whitaker, confirmed in 1957
  - Justice William Brennan, confirmed in 1957
  - Justice John Marshall Harlan, confirmed in 1955



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