



**Democrats: “Shocked, shocked to find politics in the
White House Office of Political Affairs!”**

**Minority Views and Investigative Staff Report
U.S. House of Representatives
110th Congress
Committee on Oversight and Government Reform**

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I. Executive Summary

Stop the presses: Dog Bites Man! The proposed Majority Report reaches the alarming conclusion the White House Office of Political Affairs may have acted *politically*. Not since that famous scene in *Casablanca* when the corrupt police captain feigned shock at finding gambling at Rick's – while accepting his winnings from the croupier – has righteous indignation seemed quite so contrived.

But the report's obvious finding comes wrapped in an instructive irony. As if to demonstrate the inherent difficulty of drawing bright line distinctions between public policy advocacy and politics, the Committee has used official investigative resources to produce an undeniably political product. On the eve of the 2008 presidential election, as one of its last official acts of the 110th Congress, the Committee offers a breathless, but incomplete, story of how the Democratic Majority thinks Republicans played politics. The report does concede other administrations, even Democratic ones, “used the office to coordinate travel for the President or cabinet officials.” Nevertheless, the Committee concludes “the extent of political activity by the current White House and its deep and systematic reach into the federal agencies *appears* unprecedented.” (emphasis added)

Talking full advantage of the fact appearances can be deceiving, the report cites no investigative data from this or previous administrations to support that quantitative judgment. Instead, the case this White House crossed some heretofore invisible line in pushing political considerations into official actions comes down to a one-sided numbers game. Based on more than 70,000 pages of documents obtained from the White House, 29 federal agencies and the Republican National Committee, the report declares that “Bush Administration officials participated in 326 events suggested by the political affairs office” from January to the mid-term election in November 2006. But apart from the suggestive observation that's “more than one per day,” the report fails to substantiate the theory that number is extraordinary or that all the events were purely “political” in the sense of clearly benefitting, as opposed to simply involving, someone running for public office. In effect, the report calls the winner of a baseball game knowing only how many runs one team scored: Republicans 12.

Nor does this one-sided scoring system apply clear or consistent standards in defining an event as fatally “political.” Not surprisingly, invitations to the President – and thus the need to coordinate the appearance of surrogates - increase substantially in the run-up to a mid-term election. But the presumed high total of political meetings in 2006 appears not to include many public events at which Administration officials appeared jointly with Democrats. Letters sent to the Departments of Commerce, Agriculture, Transportation and the Office of National Drug Control Policy requested only information about events held with Republicans.

So not counted in the report's total of “political” events were sessions like the one Secretary of Labor Elaine Chao had with Senator Edward Kennedy in Boston during the fall of 2006, or the ONDCP Director's Meth Recognition forum that included Oklahoma

Governor Brad Henry, or another where the Director appeared with the Democratic Mayor of Cincinnati, Mark Mallory, as well as local Republican Members of Congress.

When events including Democrats are included, the political benefit to the Republican is simply assumed, despite evidence to the contrary. For example, ONDCP Director Walters appeared at a “Synthetic Drug Control Event” on August 28, 2006 in Tucson, Arizona with Senator John Kyl, a Republican. The Democratic Governor of Arizona was also on the agenda. The program allotted Sen. Kyl three minutes. Director Walters was given seven minutes. Left unsaid: whether or how that allegedly “political” appearance aided the Senator’s re-election prospects more than two months later.

Behind these imaginative numbers lies the inescapable conclusion the investigation had a very real political impact. Responding to broad, often vague, yet technically challenging official Committee requests and subpoenas for electronic records and documents, the Republican National Committee spent many hundreds of thousands of dollars that otherwise would have been used to support its political programs. No similar requests were sent to Democratic Party political committees. This was an unprecedented use of Congressional majority authority to, in effect, defund the opposing political party. We make no accusations, and assume good faith motivated the Committee’s investigative approach. But by the same (“appears unprecedented”) standard used by the Majority to declare the White House excessively political, this investigation must be judged as quantifiably and extraordinarily political.

We conclude the Majority report does not fully or fairly represent the evidentiary record before the Committee. Many quotes attributed to witnesses in the report have been selected and edited too narrowly to provide necessary context. These Minority Views are submitted to address that failing.¹ Here, evidence and testimony are presented as they appear in the record with as much background as reasonably possible. Accordingly, this analysis makes liberal use of block quotes, allowing witnesses to speak for themselves without the unsupported characterizations often injected in the Majority report.

Based on limited and flawed scrutiny of only this Administration, the report recommends strengthening Hatch Act provisions applicable to future administrations or prohibiting any White House political office altogether. For very different reasons, we agree.

Rather than fulminate, we should legislate. From the outset of this inquiry, we agreed to join the Majority in working to clarify the subtle, often elusive, boundary between official activities to gauge the impact of public policies and explicit political advocacy. Wherever it’s drawn, the line separating official and political conduct needs to be clear enough for everyone involved to see. Since the activities of a White House office explicitly charged with “political” affairs are likely to seep across any opaque

¹ Rule 4 of the Committee Rules allows for minority views to be filed up to three calendar days following the full Committee’s consideration of the majority’s report. Technical corrections and other changes will be filed in accordance with the Committee Rules.

Hatch Act barrier, it seems best to avoid the temptation to overly politicize official deliberations by banning any overt political advocacy at all in the White House. However, we harbor a healthy skepticism the Majority's enthusiasm for a politically neutered White House would survive the inauguration of a Democratic president.

In truth, no statute or regulation can repeal the laws of political gravity. There is a necessary, even inevitable, political element in White House efforts to build national consensus behind a president's policy initiatives. Called the "political branches" by the courts, the executive and the legislative departments of government have an obligation to understand and communicate with the body politic. Feigned shock at the exercise of that function by one party against the other denies that reality and trivializes essential attempts to confront apathy and cynicism by engaging an informed, involved citizenry.

II. Findings

Cabinet Travel

- The White House scheduling office invited Cabinet members, agency heads, and senior Administration officials to appear at public events on behalf of the President. These public events were tracked by the scheduling office with a memorandum identifying suggested events. Agency heads participated only in public events to support policy objectives of their Agencies.
- Cabinet members, agency heads, and senior Administration officials traveled for the purpose of communicating and building support for the President's legislative and policy initiatives.
- The White House political staff participated in coordinating travel by Administration officials on behalf of the President. Factors considered by political officials when coordinating public events included: opportunities to maximize media coverage; opportunities to assist the President's allies, including Members of Congress; and opportunities to build public support for the President's policy and legislative agenda.
- Allegations made by Committee Democrats that the White House employed an "Asset Deployment" Program or "Team" to enhance the partisan political prospects of Republicans are unsupported by the testimony received by the Committee. Testimony by numerous former members of the White House political staff, including Ken Mehlman, Matt Schlapp, Sara Taylor, and Scott Jennings, show there was no "Asset Deployment" Program or "Team". Testimony by numerous agency officials, including officials from the Department of Justice, Department of Agriculture, Department of Commerce, Department of Transportation, and Department of Veterans Affairs, further show the allegations made by

the Committee Democrats about the existence of an “Asset Deployment” Program are factually incorrect and wholly unsupported.

Political Briefings to the Political Appointees

- The President’s political staff delivered a limited number of briefings to the President’s political appointees employed by the Cabinet departments and agencies.
- The purpose of the political briefings was to inform the political appointees of the President’s legislative and policy initiatives and help the agency staff better understand the political environment in which they were operating.
- The President’s political staff did not discuss or direct official agency action during these presentations.
- The President’s political staff had no involvement in the awarding of federal grants.

III. The Committee's Investigation

After taking the reins of the Committee, Chairman Henry A. Waxman initiated a series of investigations into the politicization of the Executive Branch. These investigations have focused on the practice of the White House political staff delivering presentations concerning the political environment and the Administration's policy initiatives to the President's political appointees at the Cabinet departments and other agencies, and the allegation that the White House convened an "Asset Deployment" team to promote the President's agenda.

On July 17, 2007, the Chairman wrote to former White House political director Sara Taylor about the receipt of documents showing politics afoot in the executive branch.² The Chairman said Taylor suggested taxpayer-funded travel by the Director of the Office of National Drug Control Policy (ONDCP) and Cabinet secretaries for public events with "vulnerable" Republican members of Congress.³

The Taylor letter had several companion letters, including letters to the Director of ONDCP and the Secretaries of Commerce, Agriculture and Transportation seeking information about official travel by the executive branch officials for partisan political purposes.⁴ The Director of ONDCP and the Cabinet secretaries were asked to produce information relating to public events with Republican elected officials. These officials **were not** asked to produce information relating to public events they participated in with Democrats – only those with Republicans. The letter reads:

I also request that you provide the Committee with a list of all events with Republican elected officials or Republican candidates for office that you and/or [your] Deputy Secretary . . . attended outside of Washington, D.C., in an official capacity during 2006.⁵

The letter chastises Taylor for not suggesting any events for the ONDCP Director with Democrats. It states, "You included no Democrats or Independents in your Memo of suggested travel by the ONDCP Director."⁶ As it turns out, the ONDCP Director, like

² Letter from Rep. Henry A. Waxman, Chairman, H. Comm. on Oversight and Gov't Reform [hereinafter OGR Comm.] to Sara Taylor, former Director, White House Office of Political Affairs, [hereinafter OPA] (July 17, 2007) [hereinafter Waxman Letter to Sara Taylor, July 17, 2007].

³ Waxman Letter to Sara Taylor, July 17, 2007 at 1.

⁴ Letter from Rep. Henry A. Waxman, Chairman, OGR Comm., to John P. Walters, Director, Office of National Drug Control Policy (July 17, 2007); Letter from Rep. Henry A. Waxman, Chairman, OGR Comm., to Carlos M. Gutierrez, Secretary, Dept. of Commerce (July 17, 2007); Letter from Rep. Henry A. Waxman, Chairman, OGR Comm., to Mike Johanns, Secretary, Dept. of Agriculture (July 17, 2007); Letter from Rep. Henry A. Waxman, Chairman, OGR Comm., to Mary E. Peters, Secretary, Dept. of Transportation (July 17, 2007).

⁵ *Id.* at 2.

⁶ Waxman Letter to Sara Taylor Letter, July 17, 2007 at 4.

many Administration officials, did plenty of public events with Democrats in 2006.⁷ According to the memo they included:

- January 10 Press Conference with Miami Mayor Manny Diaz (I)
Release of Miami Drug Control Strategy (Miami, FL)
- February 8 Meeting with Colorado Governor Bill Owens and CO AG John Suthers releasing the 2006 National Drug Control Strategy (Denver, CO)
- March 7 Meth Recognition Event with Iowa Governor Tom Vilsack (D), Rep. Kevin McCarthy (D), Sen. Keith Kreiman (D), Sen. Clel Baudler (R), and Sen. Bob Brunkhorst (R) (Des Moines, IA)
- March 8 Meth Recognition Event with Oklahoma Governor Brad Henry (D), Rep. Paul Roan (D), Sen. Dick Wilkerson (D), and Rep. John Nance (R) (Oklahoma City, OK)
- May 1 Meeting with Denver Mayor John Hickenlooper (D)
Re: Screening and Brief Intervention (Denver, CO)
- May 8 Meth Roundtable w/ Cong. Richard Pombo, Cong. Dennis Cardoza (D)
(Stockton, CA) (Deputy Director Burns)
- July 19 Meeting with Portland Mayor Tom Potter (Portland, OR)
- July 28 Meeting with Philadelphia Mayor John Street
Re: Fentanyl (Philadelphia, PA)
- August 21 Drug Task Force Event w/ Cong. Geoff Davis
Prescription drug abuse event with Judges Marc Rose and Lewis Nicholls
- August 28 Meth Recognition Event w/ Sen. Jon Kyl and Office of DA Barbara LeWall (D) (Tucson, AZ)
- August 28 Reno-Sparks Chamber of Commerce anti-marijuana Event with Assemblyman Bernie Anderson (D)

⁷ Memorandum from Evan McLaughlin, ONDCP, to Doug Simon, ONDCP White House Liaison, (2006).

August 30 Marijuana Eradication Event with CA AG Bill
Lockyear (D) and US Attorney McGregor Scott

September 18 Meeting with Cincinnati Mayor Mark Mallory (D)
(Cincinnati, OH)⁸

The Taylor letter mentioned former Presidential aide Karl Rove⁹ by name 10 times¹⁰ in as many pages. The Chairman wanted to know more about Rove's comments to a group of White House liaisons following the mid-term elections which aroused interest from Committee Democrats. According to an email written by ONDCP White House liaison Doug Simon on November 21, 2006, Rove thanked the liaisons for "all of the work that went into the surrogate appearances by Cabinet members."¹¹ The text of the Simon email is reproduced twice in the 10 page letter to Taylor.¹² It gets its own section heading – "Mr. Simon's E-Mail."¹³ Simon's unfortunate description of some of the places the Director went – "god awful," he says – is repeated four separate times in the 10 page letter.¹⁴

The email states:

I just wanted to give you all a summary of a post November 7th update I received the other night. Presidential Personnel pulled together a meeting of all of the Administration's White House Liaison's and the WH Political Affairs office. Karl Rove opened the meeting with a thank you for all of the work that went into the surrogate appearances by Cabinet members and for the 72 Hour deployment. He specifically thanked, for going above and beyond the call of duty, the Dept. of Commerce, Transportation, Agriculture, **AND the WH Drug Policy Office**. This recognition is not something we hear everyday and we should feel confident that our hard work is noticed. All of this is due to our efforts in preparing the Director and Deputies for their trips and events. Director Walters and the Deputies covered thousands of miles to attend numerous official events all across the country. The Director and the Deputies deserve the most recognition because they actually had to give up time with their families for the god awful places we sent them. I attached the final list of all of the official events that the Director and Deputies attended.

⁸ *Id.*

⁹ Go to the Democrats' Committee web site at <http://oversight.house.gov/>, enter "Rove" in the Search box. As of Sept. 20, 2008, there were 194 results spanning 10 pages.

¹⁰ Waxman Letter to Sara Taylor, July 17, 2007 at 1, 2 (three times), 6 (two times), 7 (three times), and 9.

¹¹ Email from Douglas A. Simon to Multiple Addresses at ONDCP (Nov. 21, 2006) (Simon-25).

¹² Waxman Letter to Sara Taylor, July 17, 2007 at 2, 7.

¹³ *Id.* at 6.

¹⁴ *Id.* at 2 (two times), 6, and 7.

Karl also launched into a feisty discussion about plans for the final two years of this administration. In no uncertain terms, he said he is not going to let the last quarter of this presidency be dictated to by the Capitol Hill. ... It is time to regroup and move forward (emphasis in original).

Over the last eighteen months, the Committee has issued several document requests to 29 federal agencies seeking documents related to political presentations delivered at the agency and travel taken pursuant to the “Asset Deployment” program.¹⁵ At enormous taxpayer expense, the agencies have produced over 60,000 pages of documents to the Committee.

The Committee has interviewed or deposed 11 former and current Administration officials in connection with this investigation. Topics addressed during these interviews and depositions include: 1) use of Republican National Committee (RNC) email accounts for political and official purposes, 2) the Hatch Act, 3) the Presidential Records Act (Recordkeeping Act), 4) coordination of Cabinet travel, 5) political presentations to agencies, and 6) the so-called “Asset Deployment” program.

Witnesses Interviewed or Deposed by the Committee:

- Ken Mehlman, former Director, White House Office of Political Affairs (January 2001 – March 2003) and former Chairman, Republican National Committee (RNC).
- Matt Schlapp, former Director, White House Office of Political Affairs (March 2003 – February 2005).
- Sara Taylor, former Director, White House Office of Political Affairs (February 2005 – May 2007).
- Scott Jennings, former Deputy Director, White House Office of Political Affairs (October 2005 – October 2007).
- Douglas Simon, White House Liaison, Office of National Drug Control Policy.

¹⁵ The 29 agencies are: Commerce, Environmental Protection, Justice, Housing and Urban Development, Transportation, State, Interior, Veterans Affairs, Defense, Education, Homeland Security, Agriculture, Health and Human Services, Energy, Labor, Treasury, Securities and Exchange Commission, Office of Management and Budget, Office of Personnel Management, Federal Elections Commission, Federal Trade Commission, Federal Communications Commission, Small Business Administration, Consumer Products Safety Commission, National Aeronautics and Space Administration, Office of National Drug Control Policy, Office of Science and Technology Policy, General Services Administration, and Social Security Administration.

- David Higbee, former White House Liaison, former counsel to the Associate Attorney General, and former Deputy to the Associate Attorney General, U.S. Department of Justice.
- Susan Richmond Johnson, former Senior Advisor to the Attorney General and Deputy White House Liaison, U.S. Department of Justice.
- Matthew Smith, former Special Assistant to the Secretary and White House Liaison, U.S. Department of Veterans Affairs.
- Lori McMahon, former White House Liaison, U.S. Department of Transportation.
- Anthony Hulen, White House Liaison and Director of External and Intergovernmental Affairs, U.S. Department of Agriculture.
- Mindy McLaughlin, former White House Associate Director of Scheduling for Surrogates.

IV. Majority's Report Lacks Meaningful Analysis; Fails to Concede That Many Events Were Initiated by Members of Congress and Not the White House

Even if readers are to believe the Majority's accounting of public events by senior Administration officials, the Majority fails to put these figures in context. What are we to make of the fact Secretary Nicholson participated in 24 events suggested by the White House during 2006. Is this a high number? Were all of these events suggested by the White House, or were they initiated by Members of Congress? How many events did President Clinton's Labor Secretary Alexis Herman participate in during 1998 or 2000? Attorney General Gonzales did two events. What does this mean? Was Attorney General Gonzales not interested in helping Republicans? Do these facts mean anything?

The Majority reports the Director of the Office of National Drug Control Policy John Walters participated in 19 White House-suggested events in 2006. A closer look, however, shows many of these events were not initiated by the White House, but were initiated by Members of Congress. Documents produced to the Committee show Reps. Wilson, Doolittle, Pombo, Garrett, McHenry, Geoff Davis, Chabot, Fitzpatrick and Senator Burns all invited the ONDCP Director to the events identified on the suggested event memo.

The numbers reported by the Democrats do not always obviously add-up. For example:

- The Majority reports the Director of the Office of National Drug Control Policy John Walters participated in **19 events** suggested by the White House in 2006. (Majority Report – Table 1)
- The suggested event memo prepared by the White House scheduling office for Director Walters dated November 20, 2006 identifies **21 events** that the Director participated in (one being a conference call).
- The same memo identifies a total of **25 events** – including four events in which the Deputy Director appeared.
- The agency produced an additional memo identifying **38 events** for the Director 2006 (some of which the Deputy appeared in his place). Included in the 38 events were many with Democrats – such as a Meth Recognition Event with Oklahoma Governor Brad Henry, or events on September 18, 2006 where the Director appeared with Democratic Mayor of Cincinnati Mark Mallory, as well as Republican Members of Congress Deborah Pryce and Steve Chabot.

The Majority states the Committee interviewed or deposed 18 witnesses for this investigation. Seven of these witnesses, however, were interviewed for the Committee's investigation of the Administrator of General Services in March 2007. For this investigation, the Committee interviewed or deposed 11 witnesses – six of whom served as White House Liaisons at Federal agencies. Little mention is made of White House Liaison testimony in the Majority's report. These witnesses provide damning evidence against the Majority's conclusions. These witnesses from the Departments of Justice, Veterans Affairs, Transportation, Agriculture and the Office of National Drug Control Policy all rejected the premise that the White House viewed the Executive Branch agencies as part of the Administration's political apparatus.

We disagree with the Majority's characterization of witness testimony and the liberties they take in interpreting it. It is especially worrisome that the Majority devotes as little as one or two pages to testimony by senior White House officials, and then summarily dismisses the content of the testimony as misleading or evasive. There is nearly two times as much text in their report about the history of the White House Office of Political Affairs than about the testimony of each of the former political directors. In our view, the former political directors – Ken Mehlman, Matt Schlapp, and Sara Taylor – were cooperative, forthcoming, and provided valuable assistance to the Committee in its investigation.¹⁶

The bulk of the Majority report's findings are conclusory. Their findings are not justified or supported by the facts. For example, the report concludes that for each public event with Administration officials, the incumbent Republican received a benefit. The Committee Democrats do not identify any tangible benefits for these Republicans. They also wrongly conclude these events must have had a partisan political purpose. Most did not.

The Majority fails to carefully describe how these public appearances helped Republicans. Many were not as substantial as they sound. For example, ONDCP Director Walters appeared at a "Synthetic Drug Control Event" on August 28, 2006 in Tucson, Arizona with Senator John Kyl, a Republican. What the Majority fails to mention is that the Democratic Governor of Arizona was also on the agenda for the event.¹⁷ Moreover, the agenda states the Senator was allotted three minutes to address the assembly.¹⁸ Director Walters was given seven minutes.¹⁹ Does the Majority believe this "Synthetic Drug Control" event was a political event? Did the event help Senator Kyl's prospects two months later on election day? If so, how?

According to the documents produced to the Committee, many of the events in which Administration officials appeared were in response to invitations from Members of Congress. Even when the event later appeared on a "Suggested Event Memo," the suggestion originated from Members of Congress not the White House scheduling or political offices. The documents show that Congressional staff contacted the White House (often a matter of protocol) to request the attendance of senior Administration officials. The Majority's failure to disclose these crucial facts is an example of how skewed their report is.

Congresswoman Heather Wilson invited the ONDCP Director to an anti-drug event in Albuquerque, New Mexico in April 2006. In an email to the agency, Mindy

¹⁶ All three former political directors, and former deputy political director Scott Jennings testified voluntarily, without precondition and at some length. Taylor was before the Committee staff for nearly eight hours, Jennings nearly seven, and Mehlman and Schlapp nearly six. Taylor appeared on Friday, July 27, 2007, ten days after the Chairman's July 17, 2007 letter. She also agreed to appear three days later, the following Monday, July 30, 2007, for a full committee hearing as requested by the Chairman's July 17 letter.

¹⁷ Email from Jennifer deVallance, ONDCP Press Secretary, to Multiple Addressees (May 22, 2006).

¹⁸ *Id.*

¹⁹ *Id.*

McLaughlin from the White House scheduling office stated, “We talked to Heather Wilson’s office (NM-01) and they would love to have an event in the Albuquerque area. They actually mentioned hitting the Native American part of her district for this one.”²⁰

A member of Congressman Doolittle’s staff wrote to ONDCP stating:

[T]he Congressman would welcome a visit from ONDCP officials to discuss methamphetamine problems as well as other services provided by your agency. My thought is to have ONDCP officials attend a round table meeting in Nevada County, CA with the Congressman, local county supervisors, law enforcement, education officials, and other stakeholder groups. I would also invite local media and officials from the US Department of Justice. Nevada County has not received or applied for federal grant monies so at this meeting it would be most beneficial for ONDCP officials to highlight what programs are available and what steps Nevada County needs to take to present the best grant application.²¹

The Director appeared with Congressman Doolittle in Oroville, California and in Nevada City, California in April 2006.

Then-Congressman Richard Pombo invited Director Walters to a Meth Roundtable in May 2006. According to McLaughlin, Pombo “expressed an interest in the Director coming out to his district to participate in some Meth roundtables they are setting up. Do you think you can get out west for that?”²²

Congressman Scott Garrett invited Director Walters to a meeting he was convening in Augusta, New Jersey. In a letter to the Director, the Congressman stated, “On July 22nd, I will be holding two public meetings in my district to address growing concerns about illegal drugs in our communities. I have invited DEA Special Agent in Charge for the New Jersey Division . . . , and I would like to invite you or the appropriate officials at the ONDCP to participate as well.”²³ Garrett’s chief of staff also emailed the White House directly.²⁴

Congressman Patrick McHenry wrote a letter inviting Director Walters too.²⁵ He wrote, “I would like to extend an invitation to you to visit the 10th District of North

²⁰ Email from Mindy McLaughlin, Associate Director of Scheduling, White House to Douglas Simon, White House Liaison, ONDCP (Mar. 1, 2006).

²¹ Email from Chris Parilo, Office of Congressman John T. Doolittle, to Erin Raden, ONDCP (Mar. 29, 2006).

²² Email from Mindy McLaughlin, Associate Director of Scheduling, White House to Douglas Simon, White House Liaison, ONDCP (Apr. 7, 2006).

²³ Letter from Congressman Scott Garrett to John P. Walters, Director, ONDCP, June 6, 2006.

²⁴ Email from Michelle Presson, Chief of Staff, Office of Congressman Scott Garrett, to Steven Soper, White House Staff (June 6, 2006).

²⁵ Letter from Congressman Patrick McHenry to John P. Walters, Director, ONDCP, Apr. 14, 2006.

Carolina during the August district work period to discuss potential ways the Federal government can assist state and local law enforcement agencies in combating the rising tide of methamphetamine abuse and trafficking.”²⁶ The Director accepted Rep. McHenry’s invite. The event was held on August 1, 2006.

Congressman Geoff Davis invited Director Walters to a Drug Task Force Event in Ashland, Kentucky on August 21, 2006. McLaughlin emailed ONDCP, “We had a meeting with Geoff Davis (KY-04) yesterday and he’s interested in having you all do a drug event in the Ashland, KY region. I think Meth and Oxycotin (sic) are abundant there.”²⁷

Congressman Steve Chabot invited the ONDCP Director to an event held in Cincinnati, Ohio on September 18, 2006. In an email to Doug Simon at the agency, Mindy McLaughlin of the White House scheduling office stated, “Cong. Steve Chabot in Cincinnati, OH is requesting a drug event in his district. They did not give a date range, but I’m sure they’d like something during one of their recesses.”²⁸

These are just some of the invitations Director Walters received. Pennsylvania Congressman Mike Fitzpatrick,²⁹ and Montana Senator Conrad Burns³⁰ also wrote to the White House asking for an event with the Director.

The Majority’s report fails to analyze the information presented. What tangible benefit was there to Congressman Doolittle’s reelection by Director Walter’s appearance? The appearances occurred in April 2006, approximately six months in advance of the November mid-term elections. Does the Majority’s conclusion that the White House orchestrated travel by Executive Branch officials to aid Republican candidates change when, as it turns out, Members of Congress initiated the events?

²⁶ *Id.*

²⁷ Email from Mindy McLaughlin, Associate Director of Scheduling, White House to Douglas Simon, White House Liaison, ONDCP (Mar. 3, 2006).

²⁸ Email from Mindy McLaughlin, Associate Director of Scheduling, White House, to Douglas Simon, White House Liaison, ONDCP (Feb. 23, 2006).

²⁹ Email from Mindy McLaughlin, Associate Director of Scheduling, White House to Douglas Simon, White House Liaison, ONDCP (Sept. 27, 2006).

³⁰ Email from Mindy McLaughlin, Associate Director of Scheduling, White House to Douglas Simon, White House Liaison, ONDCP (Oct. 2, 2006).

V. White House Office of Political Affairs

According to Brookings Institution author Bradley H. Patterson, Jr.'s book about the White House Staff published in 2000, the White House Office of Political Affairs (OPA or the President's political staff) was first established in 1980 by President Jimmy Carter.³¹ According to the current White House website and an archived version of President Clinton's website, OPA's purpose is to "ensure that the executive branch and the President are aware of the concerns of the American citizen."³² "The overall mission of the office was to serve as kind of eyes and ears to the President and to give [the President] the proper understanding of the political environment across the country."³³

According to former White House Political Director Sara Taylor, OPA is charged with "work[ing] within the confines of the White House and the administration to help implement the President's policies."³⁴ Taylor served as the President's top political staffer from February 2005 through May 2007. Under both Presidents Clinton and George W. Bush, the OPA's duties were among the following: 1) advise the president and his senior staff, 2) listen to various constituency groups, 3) provide briefings on the Hill, 4) advise traveling members of the Cabinet of the state and local political environment, and 5) advance the president's policy agenda.³⁵

A. Purpose of the Office

The mission of OPA is twofold. The office supports the President as head of the executive branch and as head of his party. These two missions are closely linked and the lines are often blurred.³⁶ Lyn Nofziger, President Reagan's political affairs director, was asked about what in the White House was political and he purportedly replied, "Everything."³⁷ Nofziger was referring to the broad definition of politics which encompasses all machinations involved in creating public policy. The more narrow definition is partisanship manifested in the efforts to get certain candidates elected.³⁸ OPA must carefully juggle these two definitions of politics and this can lead the office

³¹ Bradley H. Patterson, Jr., *The White House Staff: Inside the West Wing and Beyond* (Brookings Inst. Press 2000) at 206 [hereinafter Patterson]. Patterson worked on the White Staff for 14 years, serving three Presidents. In addition, he worked in the Department of State, the Peace Corps, the Treasury Department, and the Brookings Institution. See Brookings Institution Press, About the Author at http://www.brookings.edu/press/Books/2000/white_house_staff.aspx (last visited Sept. 26, 2008).

³² <http://www.whitehouse.gov/government/off-descrp.html>; <http://clinton4.nara.gov/internship/dept.html>

³³ Deposition of Matthew Schlapp by Oversight Comm. Staff, in Wash., D.C. (Aug. 27, 2007) at 9 [hereinafter Schlapp Deposition]. Citations to deposition and transcribed interview testimony herein are made to the unofficial electronic transcript furnished to the Minority staff by the office of the Committee clerk.

³⁴ Deposition of Sara Taylor by Oversight Comm. Staff, in Wash., D.C. (July 27, 2007) at 11 [hereinafter Taylor Deposition].

³⁵ Patterson at 206-210.

³⁶ Taylor Deposition at 204-205.

³⁷ *Id.* at 204.

³⁸ *Id.* at 205.

into murky waters. The director of OPA has “the primary responsibility in that office to support the President’s agenda and advocate for the President’s agenda, and that’s it.”³⁹

Patterson emphasized this when he stated: “the distinction between ‘political’ and ‘nonpolitical’ expenses is blurry and may cause outsiders to question White House practices. In 1980, supporters of Senator Kennedy filed a suit against President Carter which sought injunctions against spending public money on salaries and travel expenses for federal officials on ‘essentially political trips.’ The Carter Administration dismissed this effort as a political ploy and roughly one month later, the judge dismissed the lawsuit citing weak legal arguments.”⁴⁰

Former White House political director Ken Mehlman testified policy and politics are closely intertwined. Mehlman served as the President’s top White House political staffer from January 20, 2001 through March 2003. He explained:

[I]mportantly, **good policy is good politics**. And things that they [political appointees] could do on issues that were likely to be important to voters that were good policy I thought would have a good ancillary political benefit in many cases.⁴¹

OPA listens to various constituency groups with the hope that two outcomes will be achieved: one, good policy will be made as a result of the group’s input; and two, that particular group will gain a sense they influenced or had a say in the decision making of the President. Mehlman testified OPA’s job was to be a sounding board for various advocacy groups:

I mean, hopefully, if you are doing your job right, better policy is achieved because of the work with those constituencies.⁴²

Part of furthering the President’s policy agenda and one of the most time consuming endeavors for OPA is coordinating domestic travel for the President.⁴³ Matt Schlapp, who served as OPA Director from March 2003 through February 2005, testified that in addition to meeting with various constituencies, “part of our [OPA’s] mission was to help coordinate Cabinet/sub-Cabinet travel.”⁴⁴

Coordinating domestic travel for Administration officials is a gray area where politics and policy overlap. When the President travels to New Mexico to discuss his energy policy and in the evening attends a campaign event, all of the arrangements must

³⁹ Schlapp Deposition at 9.

⁴⁰ Patterson at 130.

⁴¹ Transcribed Interview of Kenneth Mehlman by Oversight Comm. Staff, in Wash., D.C. (Sept. 5, 2007) at 124 [hereinafter Mehlman Interview] (emphasis added).

⁴² *Id.* at 93-94.

⁴³ Taylor Deposition at 12; Schlapp Deposition at 109.

⁴⁴ Schlapp Deposition at 109. Schlapp testified OPA did not have total control over where Admin officials traveled, but just a role in the process.

be coordinated, both official and unofficial, by the White House staff.⁴⁵ Director of OPA from 2005 to 2007 Sara Taylor testified:

[I]t is always a tough call when you are in that job, to make sure that you are not doing anything [for the unofficial event] on use of official equipment and official time. So I always just tried to err in the abundance of caution to make sure . . . that I was not using government equipment for sort of political purposes. So certainly to the best of our ability, we always tried to make sure that while we were helping serve the President, and I think there are plenty of people who would argue that simply helping the President engage in his daily activity, whatever he chooses them to be, is all official, but out of an abundance of caution would always try to make sure I was using political equipment when I was doing those things.⁴⁶

This scenario illustrates the ambiguity in the word politics. At best there is the politics involved in advancing the President's agenda or "policy politics," and the politics of campaigns or "partisan elective politics," which involves advocating for the election or defeat of a candidate for office.⁴⁷ These distinctions fall within a gray area or as Mehlman characterized it:

Q And the one other thing I would just point out is whether it's political in nature or official or policy related. . . isn't as easy as a yes or no?

A Right.

* * *

It isn't. And that is why my understanding, based on my understanding of the rules, based upon my experience up here, and based on the last 20 years of political scandal, was if you weren't sure, the better place to make a mistake was not on the official side, but on the political side.⁴⁸

White House political officials are faced with difficult determinations about whether an official policy initiative's political effect makes it solely political. Mehlman testified he consulted with the White House Counsel's office:

And it [making the distinction between official and political] was particularly challenging for a hybrid kind of office like the Office of Political Affairs, which obviously is a taxpayer funded office,

⁴⁵ *Id.* at 14.

⁴⁶ *Id.* at 14.

⁴⁷ Mehlman Interview at 77.

⁴⁸ *Id.* at 202.

but at the same time is an office that whose job is political affairs. So you absolutely have to spend a lot of time kind of figuring it out and figuring out the rules, which is why I spent as much time as I did talking to the folks in the Counsel's Office and trying to seek their guidance.⁴⁹

B. Office of Legal Counsel Memorandum

Administration officials sometimes travel for official and political business. Political or campaign-related travel raises the question about who pays for what – the government or the campaign. In 1982, President Reagan’s counsel asked the Department of Justice’s Office of Legal Counsel (OLC) to determine who should pay for certain events—the national political party or the government.⁵⁰ OLC issued a Memorandum (1982 OLC Memo) discussing how to allocate the expenses and factors to determine which events are subject to the decision making process.⁵¹

The 1982 OLC Memo addresses the ambiguous nature of the definition of politics:

[T]he principles discussed in this opinion may be fully understood only with an appreciation of the unique context presented by the peculiar functions and responsibilities of the President and Vice President in our system of government. Their official roles are necessarily political in the broad sense that they must formulate, explain, advocate, and defend policies. To the extent that the President and the Vice President generate support for their policies and programs, they are also executing and fulfilling their official responsibilities. Even the most clearly partisan activity is not without some impact on the official activities of the President and Vice President.

By the same token, official success or failure by the President and Vice President has an inevitable and unavoidable impact on the standing of their political party, members of their party, and their party’s candidates for public office. **Thus, it is simply not possible to divide many of the actions of the President and Vice President into utterly official or purely political categories. To attempt to do so in most cases would ignore the nature of our political system and the structure of our government.**

⁴⁹ *Id.* at 65-66.

⁵⁰ Pursuant to the Code of Federal Regulations, “the Attorney General has delegated to the Office of Legal Counsel responsibility for preparing the formal opinions of the Attorney General, rendering opinions to the various federal agencies, assisting the Attorney General in the performance of his function as legal adviser to the President, and rendering opinions to the Attorney General and the heads of the various organizational units of the Department of Justice.” See <http://www.usdoj.gov/olc/opinions.htm>.

⁵¹ OLC Memo.

Accordingly, efforts to establish such divisions must be approached with common sense and a good faith effort to apply the spirit of the principles we discuss in this memorandum, and they must be judged with considerable deference to the decisions of the persons directly involved in making the determinations.⁵²

Concurring with a 1977 Carter Administration OLC Memorandum, but observing the prudential nature of the advice rather than legal nature, 1982 opinion observed:

As a general rule, Presidential and Vice Presidential travel should be considered ‘political’ if its primary purpose involves their positions as leaders of their political party. Appearing at party functions, fundraising, and campaigning for specific candidates are the principal examples of travel which should be considered political. On the other hand, travel for inspections, meetings, non-partisan addresses, and the like ordinarily should not be considered ‘political’ travel even though they may have partisan consequences or concern questions on which opinion is politically divided. The President cannot perform his official duties effectively without the understanding, confidence, and support of the public. Travel and appearances by the President and Vice President to present, explain, and secure public support for the Administration’s measures are therefore an inherent part of the President’s and Vice President’s official duties.⁵³

The 1982 Memo explains the inherent ambiguities — this is not a black or white question. Instead:

[T]here clearly is much room for discretion in determining whether an event giving rise to an expense is political or official. At bottom, the question is a factual one that can only be answered by those most familiar with the particular facts of a given situation. Nonetheless, in general, if the purpose of an event on a trip is to promote the partisan aims of the President’s or Vice President’s party or candidates of that party, then expenses incurred in performing the event would generally be political in character.⁵⁴

⁵² *Id.* at 215 (emphasis added).

⁵³ *Id.* at 217 citing 1977 OLC memo at 11-12 (emphasis added).

⁵⁴ *Id.* at 217.

C. The Clinton Presidency

President George W. Bush's White House is not the first White House to engage in political activity. Contemplating the political environment is an inherently fundamental aspect of governing.

It was no different under President Clinton. According to a *Washington Post* story published in 1997:

President Clinton and top aides were intimately involved in orchestrating a broad campaign fund-raising operation during his first term and **explicitly authorized the use of the White House as a tool to woo or reward big donors**, according to internal documents released yesterday.⁵⁵

The story reported:

Every modern president has used the trappings of incumbency to court financial benefactors, **but even Clinton aides have acknowledged that they took it to a new level in 1995-96** as they sought to compete with Republicans, who historically have raised more money than Democrats.⁵⁶

Chairman Waxman and Committee Democrats have suggested the Bush Administration has allowed policy to be controlled by the Republican National Committee. While the evidence does not support such a conclusion, this is not the first time an Administration has been charged with being overly political. During the Clinton Administration, the questionable use of the White House as a fundraising tool reached new heights with Presidential coffees and the use of the Lincoln bedroom. The papers of top Clinton advisor Harold Ickes revealed:

[T]he idea of using overnight stays in connection with campaign fund-raising first appeared in writing in the White House response to a Jan. 5, 1995, memo from Terence R. McAuliffe, then national finance chairman of the Democratic National Committee, who outlined several strategies to 'energize' generous givers.

Clinton welcomed the idea. 'Ready to start overnights right away,' he scrawled in response.

⁵⁵ Baker, Peter and Schmidt, Susan, *President Had Big Role in Setting Donor Perks*, WASH. POST, Feb. 26, 1997 at <http://www.washingtonpost.com/wp-srv/politics/special/campfin/stories/lincoln.htm> (emphasis added).

⁵⁶ *Id.* (emphasis added).

McAuliffe included a list of ‘our ten top supporters’ as possible beneficiaries of special access, but that wasn’t enough for Clinton. ‘Get other names at 100,000 or more, 50,000, or more,’ he wrote.⁵⁷

In an example of the overlap between official and political duties, a 1995 memo from then-Chairman of the Democratic National Committee, Don Fowler, to Ickes, about cultivating small dollar donors or those at the \$1,000 level, states “Various activities that were planned....were ‘expressly approved by the White House political affairs staff.’”⁵⁸

The White House political staff has used computer equipment provided by the Republican National Committee (RNC) for use in handling political duties. To avoid using government resources for political tasks, the RNC provided equipment such as laptop computers, printers, email accounts, and BlackBerry devices. The use of segregated computer equipment for political and official purposes is not new to the Bush Administration. The *New York Times* reported:

A visitor to the cramped White House office of Harold M. Ickes last year [in 1996] might have noticed one computer in his office and several just outside -- one of which was set aside solely for campaign politics. Mr. Ickes, then a White House deputy chief of staff, also had two telephones, one for government and one for politics, two separate pagers, and a cellular phone for politics.

A short walk away in the basement warren of offices where Douglas Sosnik worked as the White House political director, the same duality existed. There were four phones, two fax machines, two pagers and two cellular phones. As was the case with Mr. Ickes, half of them were paid for by the Government for official business, half of them were paid for by the Clinton campaign.⁵⁹

The story reported:

[T]hese are the parallel universes that White House aides lived in last year as they ran the Clinton Presidential campaign largely from within the White House while trying to obey – their critics would say skirt – the laws separating government from politics.”⁶⁰

⁵⁷ *Id.* (emphasis added).

⁵⁸ *Id.*

⁵⁹ Mitchell, Alison, *White House Political Tightrope: Separating Business From Politics*, *N.Y. Times*, Mar. 5, 1997.

⁶⁰ *Id.*

Former White House Counsel to the first President Bush, C. Boyden Gray, recalled:

[T]hat James Baker, the chief of staff who ran the 1992 campaign, had a separate fax machine for politics. Mr. Gray sent a memorandum of rules to Mr. Bush's White House staff member in late 1991 instructing them to use political credit cards for political calls or 'telephones installed and maintained by a political committee[.]' But Mr. Gray said fund-raising solicitations had been flatly prohibited from anywhere inside the White House.⁶¹

The Clinton Administration not only discussed politics and conducted political business in the White House; they used the actual facility as a fundraising tool. According to a 1997 *Washington Post* story:

Since 1995, the Clintons have hosted 103 coffees for donors and supporters, some who gave thousands of dollars each near the time of their attendance. **During Clinton's first term, 938 guests spent the night at the White House, sometimes in the Lincoln Bedroom.** Many of the guests were personal friends of the Clintons, but others were **big contributors who donated \$10 million to the Democratic Party.**

In the fall of 1995, Clinton and his top campaign advisers began regular talks on how to raise unprecedented amounts of DNC money. Since then, newly released White House records show, Clinton and Vice President Gore were kept abreast of weekly DNC fund-raising meetings, and even suggested new strategies for raising funds. **Gore also made fund-raising calls from his White House office.**⁶²

⁶¹ *Id.*

⁶² *Id.* (emphasis added).

D. The Tension between the Hatch Act and the Presidential Records Act

Employees of the executive branch are protected by the “Hatch Act.”⁶³ This regulatory scheme, which has been in existence for more than a century, governs the partisan political activities of Federal employees.⁶⁴ By enacting this statute, Congress sought to protect lower level employees “from coercion from higher level, politically appointed supervisors [pressuring them] to engage in political activities against their will....to assure a non-partisan and evenhanded administration of federal laws and programs.”⁶⁵

The Hatch Act proscribes:

- (1) Officers and employees may not use their ‘official authority or influence for the purpose of interfering with or affecting the result of an election.’
- (2) Officers and employees are generally restricted from soliciting, accepting or receiving political campaign contributions from any person.
- (3) Officers and employees may not run for elective office in most ‘partisan’ elections.
- (4) Officers and employees are prohibited from soliciting or discouraging participation in any political activities by a person who has an application for a grant, contract or other funds pending before their agencies, or is the subject of an ongoing audit or investigation by their agencies.
- (5) Officers and employees are generally prohibited from engaging in partisan campaign activity on federal property, on official duty time, while wearing a uniform or insignia identifying them as federal officials or employees, or in a Government vehicle.⁶⁶

State and local government employees whose “principal employment ‘is in connection with an activity which is financed in whole or in part’ by federal funds” fall

⁶³ 5 U.S.C. §§1501 *et seq.*

⁶⁴ CRS Report at 1.

⁶⁵ *Id.* at 1-2.

⁶⁶ *Id.* at 3.

within the Act.⁶⁷ The President and the Vice President are exempt from coverage by the Act.⁶⁸

The Hatch Act, unlike the Presidential Records Act, has an enforcement mechanism and penalties for violations of the Act. If there is an allegation of a Hatch Act violation, the allegation is investigated by the United States Office of Special Counsel (OSC), an entity within the executive branch. If OSC determines there has been a violation, it prepares a complaint for the Merit Service Protection Board (MSPB). Subsequently, the MSPB adjudicates the matter and doles out the penalty as warranted. If a violation is found, penalties range from a minimum of suspension without pay for 30 days to a maximum penalty of removal from office.⁶⁹

In contrast there is no penalty for violations of the Presidential Records Act, an act which requires each president to:

Take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of his constitutional, statutory, or other official or ceremonial duties are **adequately documented** and that such records are maintained as Presidential records.⁷⁰

The White House is **not** required to preserve and retain every communication or document created by the White House staff. This recordkeeping act merely requires presidential decision making to be adequately documented. There is no penalty for violating the Act and there appears to be no judicial enforcement mechanism.

These two statutes are in contention because as the White House political staff employees seek to comply with the Hatch Act by using campaign purchased equipment such as BlackBerry's, they could be unknowingly and inadvertently running afoul of the recordkeeping act, especially in these gray areas such as the scheduling of events for the President and Cabinet Secretaries. Ken Mehlman testified:

Q So is it fair to say that if folks are trying to beat the living daylights out of White House political officials for using their RNC BlackBerry's and evading the Presidential Records Act, isn't it a little bit hard to stomach that now you are getting beaten up for the Presidential Records Act violations when you are trying to avoid the Hatch Act problem? It's like, what's the solution?

A It certainly is. It puts you in a difficult position.⁷¹

⁶⁷ *Id.* at 3.

⁶⁸ *Id.* at 2.

⁶⁹ *Id.* at 17; *citing* 5 U.S.C. § 7326.

⁷⁰ 44 U.S.C § 2203 (emphasis added).

⁷¹ Mehlman Interview at 69.

Mehlman discussed the balancing act and the legal responsibilities under each statute in this manner:

[A]t the same time **we were dealing with essentially two laws that are at some level at tensions. The tension between official taxpayer dollars being used to subsidize what is partisan politics on the one hand versus the Presidential Records Act.**

And given if you look at the law, if you look at penalties associated with the law, if you look at where the scandals have been, if you look at all of that, and if you look at the two exemptions in the Presidential Records Act for political and for campaign, you have to balance all those things out. And my understanding today, and then, of the approach to take is that the duty is stronger with respect to the presidential -- avoiding taxpayer dollars for political than the other.⁷²

Scott Jennings, the Deputy White House Political Director from 2005 through 2007, testified he was mindful of the proscriptions of both the Hatch Act and the Recordkeeping Act. He stated the Hatch Act contains punitive provisions.

Q I guess you told us that one of the reasons you used an RNC BlackBerry was to avoid violating the Hatch Act.

A Correct.

Q Do you have any idea what happens if you violate the Hatch Act?

A . . . the Office of Special Counsel can recommend that you be fired from your government position. . . .

Q And that's pretty serious. I mean you could lose your job.

A Sure.

Q Now, do you have any idea what happens if you violate the Presidential Records Act?

A My understanding is there's no punishment provisions of this, but I can't say that I've opened up the book to independently verify that. But that's what I've been told.

Q Is it fair to say that it might make more sense to err on the side of violating the Presidential Records Act rather than violating the Hatch Act?

⁷² *Id.* at 191-192 (emphasis added).

A Yeah, I think I wasn't thinking of erring on the side of violating one or the other. I was only thinking about getting my job done, and so I wasn't actively thinking, well, in order to not break one law, I have to break another. That never entered into my -- I wasn't thinking about breaking any or going over the line on any law at all.⁷³

E. Harold Ickes and the Presidential Records Act

Chairman Waxman has claimed this Administration has violated the Presidential Records Act by assigning the political staff email accounts maintained by the Republican National Committee.⁷⁴ The Chairman has even gone as far as claiming: “These violations could be the most serious breach of the Presidential Records Act in the 30-year history of the law.”⁷⁵ Harold Ickes might have something to say about that.

During the Clinton Administration, there were serious violations of the Presidential Records Act. The *New York Times* reported Assistant to the President and Deputy Chief of Staff Harold Ickes intentionally destroyed presidential records.

Once he'd finished with the official checkout he trundled box after cardboard box down from his office into the parking lot. Janice Enright, his White House assistant, had parked her car in the first slot beside the West Wing exit, and Ickes filled it up to the brim, several times over. **In all, he carried out about 50 boxes groaning with papers: news clippings, fund-raising documents, private notes scribbled during White House meetings, private memos to the President....**

And so now the President's garbage man was leaving, and taking with him the records of what he did. And Lord, what records they are! From the moment Ickes arrived at the White House he was the guy everyone else in the room noticed scribbling notes. Even after the Whitewater hearings, when it was clear that anything you put down on paper could be held against you, Ickes kept scribbling away. He couldn't have been more conspicuous about it: he scribbled his notes standing up!

The lawyers from the Senate committee investigating campaign finance took Ickes's deposition, in the hope that Ickes would right

⁷³ Transcribed Interview of Scott Jennings by Oversight Comm. Staff, in Wash., D.C. (Oct. 9, 2007) at 86-87 [hereinafter Jennings Interview].

⁷⁴ See, e.g., Staff Report, OGR Democratic Comm. Staff, Investigation of Possible Presidential Records Act Violations (available at <http://oversight.house.gov/documents/20070618105243.pdf>).

⁷⁵ *Id.* at 9.

then and there serve up rancorous tidbits about his former boss. What he told them was so conspicuously dull that the committee decided not to call him as their first witness. ‘Do you know things that could embarrass the President?’ asks Ickes, rhetorically. ‘Yes, I most certainly do. Am I going to tell you about them? No. **Any document that was really embarrassing to the President – or to any living person – I threw it away.**’⁷⁶

VI. Cabinet Travel

Part of every Cabinet member’s job is to travel on behalf of the President to build support for the Administration’s policy and legislative agenda. When traveling, these senior Administration officials are ordinarily joined at public events by local Members of Congress and other allies of the President.

Author Bradley Patterson observed Presidents receive thousands of invitations a week to appear at various events. He wrote:

Cabinet secretaries request meetings on nonurgent matters, members of Congress pressure the President to see their constituents, and political and advocacy groups petition to stage Oval Office events or to have the President speak at their meetings. The State Department and the national security adviser urge the President not only to invite foreign chiefs of state to the White House but to allow visiting foreign ministers to call on him as well. The President must also receive new foreign ambassadors when they are presenting their credentials. All in all, requests for the president’s time pour in at the rate of perhaps a thousand a week.⁷⁷

Due to the demands on the President’s time and the high volume of invitations to appear, the White House political staff has long coordinated surrogate appearances by Administration officials in place of the President. In advance of surrogate appearances, the White House political staff is charged with supplying background information concerning the regional political environment. Bradley Patterson explained:

As had been the case under [President George H.W.] Bush, the Political Affairs Office under Clinton was on the distribution list for the weekly Cabinet Report assembled by the White House cabinet affairs staff. The political affairs group was on the lookout for two kinds of ‘intelligence’: if they read that a cabinet member would be traveling, the regional political staffers would furnish a roundup of political issues in the state being visited so that the

⁷⁶ Michael Lewis, *Bill Clinton’s Garbage Man*, N.Y. TIMES, Sept. 21, 1997 (emphasis added).

⁷⁷ Patterson at 185.

cabinet secretary would know what he or she was walking into; if a department was about to announce a grant to a state or local organization, the political office would ask the agency: ‘Have you notified the congressperson?’ (if he or she was a Democrat, that is).⁷⁸

A. During The Clinton Administration

According to author Bradley Patterson, during the Clinton Administration:

Periodically, especially before a major trip or if there are doubts or controversies, the Clinton scheduling director and a smaller group (often including the vice president) would meet with the president. After all, it was his time being divvied up: he had to be the ultimate arbiter. Beginning in 1995, even these outcomes were governed by the overarching political strategy decisions that came out of the ‘Residence meetings,’**At campaign times—in 1992 for Bush, in 1995-96 for Clinton, calendar decision making was always more frantic: ‘creative scheduling’ for political considerations trumped other priorities.**

There are times when a message or a theme has been fixed but a locale not yet identified: it is then the responsibility of the Scheduling Office to find one. Networks are activated, cabinet agencies queried, supportive members of Congress contacted about possibilities in their districts. It is never hard to generate an invitation for the president, but on occasion the logistics require last-minute juggling.⁷⁹

The Washington Times reported in 1997:

Despite legal concerns, the White House political affairs office organized a massive effort to enlist 10 Cabinet members – including Attorney General Janet Reno – to campaign for President Clinton’s re-election and for troubled Democrats in 1994, according to internal papers.

New documents provided to *The Washington Times* last night also show that the White House helped Democratic candidates land prominent officials, including the U.S. ambassador to Mexico and top trade negotiators, to attend political events for embattled candidates.

⁷⁸ *Id.* at 210.

⁷⁹ *Id.* at 188 (emphasis added).

The papers detail a previously unknown depth of involvement by the White House political and legislative offices to coordinate and organize campaign trips by Cabinet officials.

The documents also reveal that many of the “volunteers” paid for by the Democratic National Committee played a major role in the effort.⁸⁰

The story reported the Clinton Administration produced a memo, the subject of which was “Recommended Cabinet Travel.” The memo was co-authored by Cookab Hashemi, a Democratic National Committee-paid “volunteer” at the White House OPA, and Ray Martinez, an assistant in the OPA working for Doug Sosnik, Clinton’s political director.⁸¹ The story reported the practice of coordinating Cabinet campaign travel “started just after Mr. Clinton got into office in 1993.”⁸²

In a 1999 *Washington Post* story, three sources recounted the specifics of meetings held by top aides to Democratic Presidential candidate Al Gore, who was of course, Vice President at the time. The paper reported:

Top aides to Vice President Gore met with Cabinet officials this week to urge them to schedule “official” events next spring that will enable the Democratic presidential candidate to travel the country at government expense at a time when his campaign bank account will be depleted.

His [Gore’s] new plan, outlined in two meetings with Cabinet secretaries and their deputies, calls for Gore to fly coast-to-coast handing out federal grants, giving speeches and posing at photo opportunities—all paid for by the government, said three people who attended the sessions.⁸³

The *Post* reported this practice is not unusual for incumbents:

The Gore strategy is common among incumbent officeholders and emulates President Clinton’s approach during the 1996 campaign, when he used official announcements--from a tuition tax credit proposal to streamlining regulatory approval for anti-cancer drugs--to market himself to the electorate. What is unusual in Gore’s case is how reliant he may be on this strategy because his financial picture is so bleak.

⁸⁰ Bedard, Paul, *Cabinet Members Were Pushed to go on Campaign Trail; Most Fulfilled White House’s Requests*, WASH. TIMES, Dec. 1, 1997, at A1 (emphasis added).

⁸¹ *Id.*

⁸² *Id.*

⁸³ Ceci Connolly, *Gore’s Spring Strategy: More ‘Official’ Travel; Campaign Funding Squeeze Anticipated*, WASH. POST, Nov. 19, 1999 at A01 (emphasis added).

At the time, as a candidate for President, George W. Bush, was raising millions without spending significant amounts against a primary opponent in contrast to Gore.

But Gore will have the advantage of his office. **Though federal election law does not allow him to explicitly ask for votes or raise money or in any way directly promote his candidacy while he is carrying out official duties, he can still tout administration proposals and accomplishments.**⁸⁴

“These will be official events so he can’t engage in campaign rhetoric,” said one Gore aide. “They will be issue-oriented; to the extent he [Gore] benefits from that, that’s good.”⁸⁵ This quotation shows that every official event can have a political byproduct attached to it. Meaning, if Congressman X speaks at an official event with the Agriculture Secretary about augmentation of funds to disaster recovery loans, and this event and the news conveyed are positively received by Congressman X’s constituency, this official event could help Congressman X in his reelection campaign.

In meetings with high ranking Gore aides, leading up to the 2000 election, a range of policy and political matters were discussed:

But the heart of the discussion was how Gore can make use of his office--and the federal bureaucracy--for political advantage without crossing any legal lines. In government lingo, the technique is called “deliverables,” meaning goodies handed out by an official.⁸⁶

One account tells of a plan to add a political event, which in most cases was a fundraiser, to the agenda of a Cabinet official who had a nearby official event, such as a grant announcement. These scheduling efforts were coordinated by President Clinton’s Secretary to the Cabinet Christine Varney, White House Political Director Joan Baggett, Legislative Affairs Director Patrick Griffin, and Intergovernmental Affairs Director Marcia Hale. Varney told the *National Journal*:

When we are going to go for some sort of substantive site visit [meaning an official event] we will try to overlay a political piece on top of that...adding that **most Secretaries don’t travel just for campaign fund-raisers and other political engagements. As we get closer to the election, that will change.**⁸⁷

⁸⁴ *Id.* (emphasis added).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ James A. Barnes, *Like His Home-State Razorbacks Clinton’s Cabinet Plays to Win*, NATL. JOURNAL, Apr. 9, 1994, at 852 (emphasis added).

It was reported Baggett marshaled the Cabinet Secretaries' skills to assist in the reelection of Democrats in danger of losing their election. This effort started early on in the Administration and well before the reelection. According to the story:

Although that day of reckoning [election day] is still seven months away, [Clinton's White House political director Joan] **Baggett is already busily sensitizing the Cabinet Secretaries to the needs of Democratic incumbents and challengers.**

Her staff is in the process of identifying for each Secretary several key members of House committees with jurisdiction over his or her department who also support the Administration's policies and could face difficult reelection efforts. If they know that there are four people on their committees that for the good of the Administration we want back, they can do outreach with them in advance, Baggett said.

Baggett is also initiating after-hours meetings with individual Cabinet Secretaries and their top aides so that she and her deputy, Joe Velasquez, can brief them on the dynamics of the midterm elections and talk about lawmakers with tough races on their hands.⁸⁸

Clinton Cabinet officials engaged in both official and political events. The *National Journal* observed:

A visit from a Cabinet Secretary doesn't have to be for a campaign event, of course, to yield political benefit for a Member of Congress. In fact, many campaign operatives say that they'd rather have a Secretary do a "policy hit" than a fund-raiser because of the free coverage by the news media that such events typically generate. Outside of a few dollars on the margins, they figure, the contributions that their candidates can rake in from a fund-raiser back home that features a Cabinet Secretary would probably flow into their campaign coffers anyway.⁸⁹

President Clinton was aware of the travel of this Cabinet and there were concerted efforts to have the Cabinet Secretaries visit certain areas of the country. According to the story:

'Both he and the First Lady are updated on a regular basis on the activities of the Cabinet,' Harold M. Ickes, a White House deputy chief of staff said.

⁸⁸ *Id.* (emphasis added).

⁸⁹ *Id.* (emphasis added).

Each week, Clinton receives a 10-page-or-so memorandum prepared by Varney's office on the front-burner issues in each department. The weekly report also includes sections on Cabinet activities in connection with health care reform and crime legislation. Attached to the back of the memo is day-by-day listing of where the Secretaries are traveling.

Despite this level of precision, the process of deploying the Cabinet . . . can be likened to "controlled chaos."⁹⁰

B. The President's Surrogate Scheduler

Mindy McLaughlin was the Associate Director of Scheduling for Surrogates from 2005 to 2007. McLaughlin testified she dealt with both political and official events.⁹¹

She explained her job:

One of the ways in which I would receive a request to an event to work on would be something that had been originally slated for the President. Those were termed by myself as POTUS regrets. An event that the President was invited to, but for whatever reason he couldn't end up doing, but that we felt somebody else should go in his place. That was something that because it directly had come to the President was more of a matter that fell under the scheduling office purview. And other events would be more under the political purview, political office purview.⁹²

McLaughlin testified about the process for coordinating Cabinet travel. Her responsibility was to pass along requests and make sure high profile events declined by the President were attended by one of his surrogates.

⁹⁰ *Id.*

⁹¹ McLaughlin Deposition at 10.

⁹² *Id.* at 9-10.

Q Can you describe what the process was for surrogate travel, what your role was, what other people's roles were?

A We would receive requests for the participation of administration surrogates and then pass them on to the surrogate that had been requested. The request came from a variety of places, one of which would be the POTUS regrets that I just mentioned. I would also get requests from other offices within the White House that would have heard of something they needed, including the Office of Political Affairs, Office of Intergovernmental Affairs, Office of Public Liaison. I would also receive requests from other outside offices, outside organizations; civic groups, trade organizations, sometimes political organizations.

Q And what would you do with those requests when they came in?

A We would process them. And then if looking at them if we thought they were something to recommend, we would pass them on to the office of the surrogate that had been requested for their consideration.⁹³

McLaughlin testified she received requests from numerous individuals and entities, some within the White House, and she passed those along as recommended events for Cabinet officials to participate in.⁹⁴

⁹³ *Id.* at 11.

⁹⁴ *Id.* at 14.

C. Purpose of Cabinet travel: Communicating the President's Message

One purpose of Cabinet travel is to communicate and build support for the President's policy and legislative agenda. Public events by Cabinet members on behalf of the Administration are tracked and coordinated by the Office of Political Affairs. An inherent function of the OPA is to ensure the President is properly represented at events across the country and ensure that his message is communicated effectively.

Former White House political director Ken Mehlman testified:

Q And so it might make sense from time to time to, if there was an initiative at USDA, for the President and for the Political Affairs staff to send the Secretary of Agriculture out to talk publicly[?]

A No question.

* * *

Absolutely. And often we would do it on behalf of . . . particularly important pending legislation. Whether it was education, No Child Left Behind, the tax relief, both of which were important priorities.⁹⁵

According to Mehlman, travel decisions were based on the President's policy agenda.

Q What were the criteria used for deciding what events to suggest that an agency had traveled to?

A There are two different areas to travel. There is the President's agenda, which is what we spent a lot of time in 2001 and early 2002 focusing on traveling to promoting No Child Left Behind, promoting the tax cuts, promoting forest health, promoting discussion of those kinds of issues. So that would be a big part of what we would spend time on. And then there is also -- and so you decide that based on where audiences are that are most interested in those issues.⁹⁶

Sara Taylor, White House political director from 2005 to 2007, testified the goal of travel, whether Presidential or surrogate, was to communicate the President's message. Taylor explained why the White House is involved in coordinating public events by

⁹⁵ Mehlman Interview at 77.

⁹⁶ *Id.* at 147.

members of the Cabinet. The White House did not want two Administration officials to be competing for press. She testified:

The one thing you want to do is, when you're trying to spread the President's message, is that you want to be everywhere, and you want to have your -- but you don't want everybody there at the same time, so you're trying to have people in multiple media markets talking about multiple good works on any given week.⁹⁷

Matt Schlapp, White House political director from 2003 to 2005, testified a natural byproduct of Cabinet travel was positive press coverage for an incumbent office holder. Public events with senior officials are newsworthy. This media coverage can be beneficial to the Members of Congress and other allies of the President in the region.

We were encouraging the cabinet and sub-cabinet and political employees to be aware that where they traveled had an impact and mattered. And we did not see that as a negative if one of the President's allies was benefited by that travel.

But let me be very clear. There were plenty of times when cabinet secretaries and the sub-cabinet were making travel or doing -- or engaged in travel, and they might be helping people that weren't always necessary[il]ly seen as the President's allies. And I'm sure there's tons of press accounts out there in the country over the course of these many years about this...official from the government standing next to somebody who you would think might even be a bitter opponent on most things, but maybe they agree on some things.

And at the end of the day, what we cared more about than anything else in our office was the fact that the President had run on a certain set of ideals. I had been with him on the campaign in 2000. And he wanted to get certain things accomplished. And...politics plays a role in that process. Right?

So having an understanding of politics is not necessarily a bad thing. It can be a good thing because it can help you be more effective in trying to get what you want to get done from a policy standpoint. So that was the number one goal.⁹⁸

Certain times each year are better for communicating the President's message. During January, around the time of the State of the Union address, the President's message resonates throughout the country. It was a good time to have the surrogates travel to reinforce his message. McLaughlin testified:

⁹⁷ Taylor Deposition at 30 (emphasis added).

⁹⁸ Schlapp Deposition at 107-114 (emphasis added).

Q And right around the time of the State of the Union, is it fair to say that it was a good time to go out in the country and spread the President's message because the State of the Union was in the news and people were talking about what the President had said?

A Yes. It was a particularly good time being in January there wasn't a lot of other news to compete with it. . . . People seem to pay attention to the major themes that he discuss[es] and having his administration surrogates travel to echo that was a priority for the White House.

Q And when one of the President's surrogates, a Cabinet secretary, makes a public appearance, is it generally the goal of the White House to have a well-attended event?

A Yes.

Q And is it generally the goal of the White House to have media coverage where that is the intent?

A Yes.

* * *

Q And is a good time to get coverage for the President's message also when politics is a hot topic, such as the congressional elections?

A Sure. I think it was our feeling that people tend to pay more attention to what's going on in the news and issues around election time.

Q So in the month of October when the midterm elections are in the news and being covered, is it fair to say that October of '06 might be a good time to spread the President's message, as opposed to February or March of '06?

A Yes, that would be -- that was definitely something that we considered. When people are paying attention, they are looking at the issues, they are thinking about the things that they care about in order to make a decision. And, yes, that would have been a good time for us to really talk about what we were focusing on.⁹⁹

⁹⁹ McLaughlin Deposition at 50-51.

Lori McMahon, former White House Liaison at the U.S. Department of Transportation (USDOT), testified the purpose of the political staff suggesting events was to communicate the President's message.

Q When the White House suggested events for the Department of Transportation to attend, what was the purpose of scheduling these events?

A In my personal opinion, **I think it was to communicate the President's message...**

Q And I know that you said it's your personal opinion for the goals of the President. **In your personal opinion, how did it further the goals of the President?** In what way?

A Let me give you an example. **I specifically remember after the State of the Union one year...the President talked about energy policy, and so we were given a request to go out and do an energy event. And so it was just echoing what he was talking about in the State of the Union.**¹⁰⁰

Some Members of the President's Cabinet held public events with Democrats. Agriculture Secretary Johanns is an example. USDA White House Liaison Anthony Hulen testified Congressional offices contacted USDA with invitations for the Secretary. In accepting the various invitations, Secretary Johanns's main purpose was to further the President's agenda and communicate USDA's message. Hulen testified the Secretary did not consider the political party of an office holder when setting up events.

Q Do Members of Congress -- do Senators reach out from time to time to the White House or the Agency to see if they can get the Secretary or the Deputy Secretary out to a public event?

A Yes, they do.

* * *

¹⁰⁰ Transcribed Interview of Lori McMahon by Oversight Comm. Staff, in Wash., D.C. (Feb. 20, 2008) [hereinafter McMahon Interview] at 32 (emphasis added).

Q For example, the Secretary was in Sioux City, Iowa, August of 2006, with Senator Tom Harkin --

A Correct.

Q -- for a public event. Do you have a recollection of that event?

A I have some recollection of that event, yes. I believe that was during a rural development tour that was going on, if I recall correctly. There were a number of events that Secretary Johanns had participated in with Senator Harkin.

* * *

Q Do you ever have a recollection of the Secretary, Secretary Johanns, expressing a disinterest in participating in a public event with a Democrat?

A Not to my recollection, no.

Q So when it came to staging a public event, for lack of a better word, part of the Secretary's calculus wasn't whether the person was a Republican?

A No.

Q I also note . . . getting closer to Labor Day -- which, of course, Labor Day is when the political season really gets into swing in advance of the elections -- the Secretary did a drought tour with Senator Tim Johnson from South Dakota and Congresswoman Stephanie Herseth. Do you have any recollection of that particular --

A Yes, I do.

Q Was the drought tour in response to a specific --

A It was in response to the drought -- a request that had been going around the Hill at that time. And South Dakota was a State that had a very adverse impact from drought.

Q And so it made sense for Secretary Johanns to get out there to South Dakota --

A Yes.

Q -- to understand the lay of the land --

A Absolutely.

Q -- and to confer with Senator Johnson?

A Senator Johnson and Congresswoman Herseth, at the time -- Herseth Sandlin, yeah.

Q But both Democrats, correct?

A Yeah.

Q I also note with some interest an event on October 30th, Halloween eve, with the Hispanic Association of Colleges and Universities with Congressman Hinojosa. Do you recollect that event?

A Yes.

Q He is a Democrat, isn't he?

A That's correct.

Q **So to the best of your knowledge, the Secretary, whether Secretary Johanns or Secretary Schafer . . . they don't factor in whether someone is a Republican or a Democrat before determining whether . . . they should do an official trip or public appearance?**

A **. . . as I stated earlier, if there is any criteria, it is helping us advance the President's and the Department's goals, which I've mentioned to you earlier.**¹⁰¹

¹⁰¹ Hulen Interview at 47-50 (emphasis added).

D. Scheduling Cabinet Travel

McLaughlin, in conjunction with the political staff, sent White House Liaisons at the Cabinet agencies a memo (surrogate scheduling memos) with proposed or suggested events. Mehlman, President Bush's first political director, said the effort to track Cabinet travel was disorganized at first. These surrogate scheduling memos sought to organize and track travel more efficiently. Having two Administration officials in the same region of the country at the same time can be counterproductive and duplicative. Mehlman testified:

Q Do you have a recollection of whether the Office of Political Affairs, the surrogate scheduling operation kept track of where the Cabinet members were going, public event wise?

A I think that there was an attempt to do that, as I recall, and as I mentioned earlier, I think that often that was -- there was an attempt to keep track of it, but at least at that time the prime tracker was the Cabinet Affairs Office. And we kind of piggybacked on their information. But as I recall at the time, the process of tracking was not very good and the system of tracking was not very good.¹⁰²

Many of the events listed on the surrogate scheduling memos were official, focusing on the President's policy agenda, while other events listed were political campaign events. Candidates often contacted the President's political staff or White House Office of Legislative Affairs to request a Cabinet official participate in a fundraiser in his or her district.

Sara Taylor testified on the numerous requests for appearances received by the White House and what officials looked at when scheduling travel:

Many factors. As a general rule, we want to work with these Cabinet Secretaries to help make sure that when they are out speaking on behalf of the administration on their respective activities, that their time is being well spent, that they're garnering a maximum amount of press coverage, that they're not in a situation where there's no crowd, there's no press.

And so, as a general rule, we get inundated; that office [OPA] has historically been inundated with calls for help on any number of levels, so we tried to, obviously as a function of working with Members of Congress, building relationships, trying to be helpful, any number of factors would go into this.¹⁰³

¹⁰² Mehlman Interview at 179 (emphasis added).

¹⁰³ Taylor Deposition at 24.

McLaughlin testified the purpose of her memos was to assist in recordkeeping:

Q What was the purpose of this suggested events list [the surrogate scheduling memos]?

A From my understanding, **the purpose of doing a memo like this would be to simply record the request that we had received that we recommended to pass on to the surrogate; keep it on one document, a couple of pages. And also keep track of the details of it and where it was in the process.** As you can see, the status column of where it was in the request process was definitely a key piece of information we wanted to keep together.¹⁰⁴

According to Taylor, the surrogate scheduling memos were for recordkeeping:

Q And you testified earlier that, in essence, this was a recordkeeping device. Is that fair to say?

A Yes.¹⁰⁵

McLaughlin testified when she sent her memos to the various White House Liaisons, she expected them to pass the requests on to the decision-makers and then relay an answer back to her:

Q And what was your understanding that they would do when they received the memos?

A My understanding is they would take these event requests back to their office to their, whoever makes the scheduling decisions over there, secretary there, counsel there, scheduler, whoever, and then discuss it, and they would let me know what the verdict was and whether or not it was a go or no go.¹⁰⁶

The practice of tracking the status of the event was for recordkeeping and informational purposes. The surrogate scheduling memos were a communication tool to assist the Office of Cabinet Liaison with tracking Cabinet travel. McLaughlin testified:

Q And what was the purpose of keeping those different, keeping track of those different statuses?

¹⁰⁴ McLaughlin Deposition at 15-16 (emphasis added).

¹⁰⁵ *Id.* at 44.

¹⁰⁶ *Id.* at 18-19.

A I would say, one, it would be just a way to keep organized on where these requests were. And two, often the person or group requesting it would want to follow up with the White House on where the request was in the process. So it was kind of a, I would say in general, **an organizational tool to keep on top of it.**¹⁰⁷

E. Political Events v. Official Events

McLaughlin was asked about her understanding of what is considered a political event and what was considered an official event. According to McLaughlin, the decision about the character of an event, meaning political or official, rested with the requestor of the event.

Q Did anyone define for you what an official event was versus a political event?

A Well, I have an understanding that political events were definitely events that were requested by political organizations. That it was either going to be a fund-raiser or a rally. . . . some way to try to raise funds or . . . ask for a vote, some sort of specific advocacy for a candidate. And official events would not be. I had an understanding that for a political event, for example, you would not, a surrogate would not be able to use their title.

Q And where did you get that understanding from?

A I don't remember hearing it from one person or a certain source....

Q And who would be determining whether the event was going to be an official event or a political event?

A Generally, I remember when requests came in they would have a designation already assigned to them. So the event would come in asking for...an official event about whatever. Or it would come in and ask for a political event or a fund-raiser. So generally when I received the request, it already had that attached. Sometimes if it didn't, we would go back to the people that requested it and ask them to clarify. And I would say those are basically the two things that we did.

Q Were you ever involved in a decision about whether something was an official event or a political event?

¹⁰⁷ *Id.* at 19-20 (emphasis added).

A Generally no. Those decisions were up to the people requesting the event and then to the people that they were requesting. If they, if the people requesting it didn't know or couldn't make up their mind, they would work with the office that they were requesting to figure out what would be the appropriate thing to do.¹⁰⁸

Taylor testified about the differences between official events and political campaign-related events:

I never considered that in an official capacity somebody [a Cabinet official] would be advocating the election or the defeat of a candidate. I certainly considered that...these were hot areas around the country; they were likely to get a maximum amount of press coverage for the administration. They were likely to have -- I have a personal belief that a Member who is actively engaged in his or her district, who's got a staff that is working hard is going to produce a better experience for a Cabinet Secretary than somebody who's not. So there are a variety of factors that go into this, **and obviously, our goal in the administration is to maximize press coverage for whatever issue somebody in the administration happens to be addressing.**

* * *

I did not consider that a Cabinet member doing an official event would advocate, an official event in an official capacity, the election or defeat of a candidate. **I considered that this would be a good experience for the Cabinet official because it would be an opportunity to talk about an issue that the President cares about. It would be an opportunity to draw a maximum amount of press coverage, that it would be an opportunity for the Cabinet Secretary's time to be well spent** because presumably many of these Members had staff that were focused on making sure events were well attended. **So there is a confluence of reasons as to why you would want your Cabinet official to be in an environment where they were maximizing press coverage for the issue which you care about.**¹⁰⁹

F. Surrogate Events

¹⁰⁸ *Id.* at 27-28.

¹⁰⁹ *Id.* at 32 (emphasis added).

Committee Democrats conflate official and political travel. This creates the illusion all travel was political in nature. The testimony of the witnesses, however, does not support such a conclusion. Sara Taylor stated that in some instances, a Cabinet Secretary's presence could have a negative effect:

Q In what cases would it not help your candidate?

A **It would not help the candidate if the Cabinet Secretary was there and said something that was counter to the candidate's view on an issue. It would not help the candidate if no press showed up. It would not help the candidate if the event was poorly attended. It would not help the candidate if, again, the person, official, speaker, whatever you want to call this individual, didn't advocate their election.** You can stand up all you want in a room with people and talk about an issue, but if you don't tell the audience to vote for the person, I don't know that it does him or her a lot of good.

* * *

Q Was the fact that these Members were up for re-election one of the factors that you considered when you suggested them for these events?

A **I consider lots of factors when I suggest events. I consider how the Cabinet Secretary is going to . . . what the total experience is going to be for that person. Are they going to have an opportunity to maximize press coverage? Are they going to have a good audience? Are they going to be able to highlight the good works of the administration? Are they going to be in a media market that has not been touched by the administration in a very long time, and we should have somebody there talking on behalf of the President? Is there going to be a cooperative group of people, staff on the ground to help assist that person? So I consider lots of factors.**¹¹⁰

McLaughlin was asked whether assisting Republican incumbents was a factor when suggesting official events. She testified the political staff looked at a broad range of factors and one of those factors was helping allies of the President. McLaughlin testified anytime a high ranking government official appears with an office holder or candidate, there is an inherent political consequence. She explained:

I think that for official events specifically, we did weigh a number of options. Being supportive of an ally of the President would have been one of those options. But I think

¹¹⁰ *Id.* at 35-38 (emphasis added).

that I had a general understanding, and we as an office had a general understanding, that any time an administration surrogate like any time the President travels anywhere, that that's going to have, inevitably going to have a potential political consequence given...any sort of public event...potential media coverage, any time we're talking about policy it has the potential of gaining support.¹¹¹

According to Mehlman, decisions about Cabinet travel were arranged with a view to media markets and areas of the country where the White House wanted to focus its message.

Again, reconstructing today what I think it probably was, was to say here are the places where, going to travel, **you are likely to get the biggest bang for your buck in terms of media, in terms of where the President's agenda needs the most buttressing** and where, frankly, we have had competitive races in the past and things are likely to be competitive in the future.¹¹²

He testified that communicating the President's agenda and assisting the President's allies were part of the mission of OPA. The President's political staff executed this mission by coordinating efforts to assist where there was a need.

Because I think that that is a big part of what our [OPA officials] job was. **Our job was to find appropriate ways to help the President's agenda and help the President's allies.** And as . . . there is -- **highlighting good public policy in places that would help an ally, I thought was entirely appropriate.**¹¹³

¹¹¹ *Id.* at 34-35 (emphasis added).

¹¹² Mehlman Interview at 141 (emphasis added).

¹¹³ *Id.* at 149 (emphasis added).

USDA White House Liaison Anthony Hulen testified he considered a number of factors when considering whether the Agriculture Secretary should participate in a public event. He testified:

Q And was there a strategy to the scheduling or planning of the official events in terms of perhaps political or policy-wise reasons?

A I can't speak for what White House strategy might have been...**our strategy again was...would this fit within the messaging efforts we had going on with farm bill, trade, exports...beef -- not to be redundant, the priority goals that I had mentioned earlier...Was it going to fit within the Secretary's schedule** when you have to factor in not just those types of requests, which are just one small part of it, from the daily meetings that he had to be a part of, meetings with Members of Congress that he has been called on for, the business going on in Washington, to some extent the social schedule he had going on at the time...not set parameters, **but there were a whole host of things to consider in looking at these requests.** Obviously too . . . had we been there [to the specific destination suggested] before.¹¹⁴

G. Cabinet Travel and the Political Office

The suggested event memos identified opportunities for public events for members of the President's Cabinet. McLaughlin, the member of the scheduling office's staff that compiled these memos testified:

I believe the term "suggested event participation" was how the memo was termed when I received it from my predecessor, so I couldn't tell you where the real impetus of it came from. But it was my understanding, just personally speaking, is the reason it was there is that **we were wanting to make it clear to the surrogates that these were recommendations,** that we were suggesting them, that we thought they were good ideas. **But it was sort of a situation where we were passing this on as recommendation, and it was totally up to them to think about it, decide on it and just let us know if they wanted to accept it or not.**¹¹⁵

The White House was suggesting events, not mandating events, and the idea for those events had many sources. According to Deputy Political Director Scott Jennings

¹¹⁴ Hulen Interview at 31-32 (emphasis added).

¹¹⁵ McLaughlin Deposition at 52-53 (emphasis added).

(2005-07), the political staff passed on requests and it was up to the various Secretaries to determine in what they wanted to participate:

Q But the Office of Political Affairs wasn't providing instructions to the Cabinet Secretaries that they needed to be out doing fundraisers and what not?

A ...I think that the information that the Office of Political Affairs provided was...here's a list of things that people have said to us. We would love to get "X" Cabinet Secretary. You've been requested at these [events]. Then...the extent to which they decided to do it or not to do it really was...I think the final decision lay with them [the Secretaries].¹¹⁶

McLaughlin testified there were no negative implications if a Cabinet Secretary declined to do an event on the suggested list.

I think we definitely considered this to be suggested, not mandatory. It was up to the agency and their staff and especially their -- their principal to determine if they wanted to do it.¹¹⁷

This was confirmed by several White House Liaisons. Cumulatively, the White House Liaisons interviewed and deposed by the Committee testified they never felt undue pressure from the White House. Matt Smith, the former White House Liaison at the Department of Veterans Affairs, characterized the surrogate scheduling memos in this manner:

I mean, this [the surrogate scheduling memo] is a list of events that they [Scheduling and OPA] have forwarded over **for the Secretary to consider...attending as...representing the President or they're requests from Members of Congress who have...asked for the Secretary to...visit their district.**¹¹⁸

Smith testified the agency took McLaughlin's suggestions "under advisement."¹¹⁹ Even when McLaughlin conveyed to Smith that something was a priority, the agency did not necessarily act on it.¹²⁰

Doug Simon, White House Liaison at the Office of National Drug Control Policy (ONDCP) said his agency saw them as an opportunity to extend the reach of the President's message and further goals of ONDCP. He testified:

¹¹⁶ Jennings Interview at 70.

¹¹⁷ McLaughlin Deposition at 44-45 (emphasis added).

¹¹⁸ Transcribed Interview of Dep't of Veterans Affairs Deputy Assistant Secretary for Public Affairs Matthew Smith by Oversight Comm. Staff, in Wash., D.C. (Dec. 6, 2007) at 38 [hereinafter Smith Interview] (emphasis added).

¹¹⁹ *Id.* at 72-73.

¹²⁰ *Id.* at 102.

In 2006, there was an Agency initiative, priority if you will, goal to become reauthorized. We had not been authorized in 3 or 4 years...that was an Agency goal of 2006, and also to get our programs and our priorities appropriated. **So, as an agency, the decision was made that we would try to do as much outreach to Members of Congress, either on the road or at meetings on the Hill, to establish relationships to meet those Agency priorities.**

So we took any and all requests for meetings/trips very seriously as a way to bridge relationships.¹²¹

According to Department of Transportation White House Liaison Lori McMahon, it was Secretary Mineta's practice – **and the Secretary is a Democrat** – to assist the White House by appearing as a surrogate whenever he could. She testified if the President requested something, USDOT staff did its best to be accommodating:

Well, one thing that I think that you all should know is it was a priority of Secretary Mineta's to do everything we possibly could when the White House asked. It was very, very important to him and he talked about it many times. And so did the chief of staff. And so with anything that was in our job responsibilities, we always tried to do it to the best of our abilities.¹²²

¹²¹ Transcribed Interview of the Office of National Drug Control Policy White House Liaison Douglas Simon by Oversight Comm. Staff, in Wash., D.C. (July 25, 2007) [hereinafter Simon Interview] at 37 (emphasis added).

¹²² Transcribed Interview of Lori McMahon by Oversight Comm. Staff, in Wash., D.C. (Feb. 20, 2008) [hereinafter McMahon Interview] at 42-43. Secretary Mineta did not engage in fundraising activities for the Republican Party (see McMahon Interview at 44).

According to Anthony Hulen (USDA), the White House political staff's involvement was limited to tracking and scheduling. He testified:

Q And was OPA involved in all travel or just some travel?

* * *

A In travel -- I mean, as far as...how I work with them, **their [OPA's] involvement was the back and forth communication I had with them in informing them of requests. They informed me of requests. And my letting them know the Secretary is available to this, he is not available or . . . he is or is not going to do the request.**¹²³

Hulen made it clear the decision to participate in a public event was the Secretary's.¹²⁴ Hulen declined to characterize the surrogate scheduling memos as "suggesting" events for the USDA Secretary to participate in; instead, he considered it more of a back and forth:

Again, and I go back to . . . what I stated earlier, not to mince words, but just "suggesting," would [not] have been the word I used, is that **we were communicating a request back and forth...I can't speak to what OPA was thinking other than we were just having the two-way communication on requests that were coming.**¹²⁵

¹²³ Hulen Interview at 33 (emphasis added).

¹²⁴ *Id.* at 36.

¹²⁵ *Id.* at 69 (emphasis added).

H. Democrats Did Not Request Events with the President and His Cabinet

Few Democrats requested events with Administration officials. Hulen testified the bulk of invitations came from Republicans.¹²⁶ With regard to appearing with Democrats, McLaughlin testified:

Q Did anyone that you reported to, whether it be in the scheduling office or the political office, ever specifically instruct you not to arrange events with Democrats?

A Not that I can recall.

Q So if someone, a Democratic Member of Congress, had requested an event with the President and that request made its way to you, you would pass that along to the appropriate Cabinet secretary?

A Yes, had I received those kind of requests, we would have.

Q And to the best of your recollection, did you ever receive such a request [a request from a Democratic official]?

A I do not recall receiving those kinds of requests.

Q And to the best of your recollection in the run-up to the midterm election in 2006, did any Democrats request public events with the President?

A I don't know what the full extent of invitations for the President's participation was. I only saw events that he'd been invited to that he couldn't attend that were selected for surrogates' attendance. That set of invitations, I don't recall seeing one that was specifically for a Democrat.¹²⁷

The surrogate scheduling memos did not include all public events by Cabinet Secretaries, only the events that were requested or declined by the President.¹²⁸ As Hulen testified, Secretary Johanns, for example, did several agricultural or drought events with Democrats.¹²⁹ Likewise, Matt Smith, the White House Liaison at the VA, testified the White House did not discourage Cabinet officials from scheduling events with Democrats:

¹²⁶ *Id.* at 50.

¹²⁷ McLaughlin Deposition at 56-57 (emphasis added).

¹²⁸ *Id.* at 58-59.

¹²⁹ Hulen Interview at 47-50.

Q Did the White House ever discourage you from scheduling events with Democratic Members or Senators?

A No.

Q Did they ever discourage you from scheduling events with Republican Members or Senators who hadn't been supportive of the White House?

A No.

Q Okay. Did they [White House officials] ever question planned travel that you had set up or that the Secretary had set up for himself?

A Not to my recollection.¹³⁰

I. The White House Liaisons

The White House Liaisons interviewed by the Committee did not take direction from the White House political staff. The Committee Democrats have said the White House political staff controlled agency decisions through the White House Liaisons. The evidence does not support such a conclusion. When former Department of Transportation White House Liaison Lori McMahon was asked if she reported to “anybody at the White House,” she replied, “No.”¹³¹ She said she infrequently communicated with OPA officials:

Q How often did you communicate with officials from the White House?

A Specifically, what do you mean?

Q **Well, I guess those officials -- the White House officials that were in the Office of Political Affairs.**

A **Political Affairs, not very often. It wasn't a majority of my job. The department that I spent the most amount of time with was Personnel.**¹³²

McMahon explained her contact with McLaughlin. She testified:

¹³⁰ Smith Interview at 89.

¹³¹ McMahon Interview at 13.

¹³² *Id.* at 16 (emphasis added).

Q What types of regular ongoing communications did you have with officials in the White House Office of Political Affairs?

A There was not a regular basis. Besides Mindy McLaughlin calling, or email periodically, I didn't talk to Political Affairs that often.

Q Just for the record, I think Mindy McLaughlin was in the Scheduling Office. I don't even think she was in the Office of Political Affairs.

A To be honest with you, I am not really sure what office she was in.¹³³

Former White House Liaison from the Department of Veterans Affairs Matt Smith explained his contact with McLaughlin. He testified:

Q Would you tell her [McLaughlin] which events the Secretary was going to take and which ones he was not?

A Yes.

Q About how often would you do that?

A As decisions were made by the Secretary.

Q How did you decide that that was something you needed to do, to provide updates?

A If they were sending a suggested event or . . . a scheduling request over, I felt it was collegial to respond with what was happening with that request.¹³⁴

The White House Liaison from the Department of Agriculture Anthony Hulen testified he did not view anyone at the White House as his supervisor.¹³⁵ Hulen testified his communication with the White House was frequent but it was varied as to what office he was dealing with depending on the subject matter he was working on.¹³⁶

Former Deputy Political Director Scott Jennings, speaking from the White House perspective, testified the President's political staff did not have direct responsibility over

¹³³ McMahan Interview at 47-48 (emphasis added).

¹³⁴ Smith Interview at 41-42 (emphasis added).

¹³⁵ Hulen Interview at 8-9.

¹³⁶ *Id.* at 11-12.

the White House Liaisons. He testified the relationship between the political staff and the White House Liaisons as follows:

I think it's fair to say that we had a working relationship and communicated, as they did, with Presidential Personnel and probably, certainly, the Cabinet liaison, but no, I wouldn't describe -- they were not White House employees. They didn't report to anyone necessarily.

Q So nobody within the Office of Political Affairs was in charge of instructing the White House liaisons on the types of job responsibilities that they should carry out at the agencies?

A No. I mean . . . there were recommendations. Like resumes would be sent over, "Hey, would you mind interviewing this person," that sort of thing. But I wouldn't -- I don't remember a time when -- I don't remember ever being involved with anything where people were "Here's your instructions because we're your boss, and you report to us." I don't remember that or I don't know anything about that.¹³⁷

From OPA's perspective, former Political Director Ken Mehlman testified his office did not have direct control over White House Liaisons. He said on occasion the political staff gave input on a candidate for a political position at an agency but beyond that, the political staff mostly served as a liaison with the agency. He testified:

I don't think overseeing [the White House Liaisons] is what we had a role in. We certainly worked with the White House liaisons on many occasions. The White House liaisons obviously were, as their title suggests, people that work most closely with the White House. And in the first term, their biggest function was to focus on filling schedule C positions and helping fill political positions. And so, in that capacity, they would work closely with the, first and foremost, White House Personnel Office, and then with us as well.

* * *

¹³⁷ Jennings Interview at 140-141 (emphasis added).

[W]e helped identify potential White House liaisons, and we certainly worked closely with the White House liaisons. **But who did they report to? I mean, I think they reported officially to the chief of staff at the agency.** But their mission was to make sure that the White House's thinking was reflected in the top positions . . . each department was different. In some cases, the White House liaisons were very much senior staff positions, and in other places, they were lesser.¹³⁸

J. Integrity of Official Agency Business Maintained

The record does not support the conclusion the White House Office of Political Affairs was engaged in meddling with the official business of the Cabinet agencies.

Former Department of Transportation White House Liaison Lori McMahon testified the White House was not overbearing or attempting to control the official business of the USDOT.

Q In your time at the Department, **do you have a specific recollection of the White House making a directive to you or to anyone at the Department as to how a piece of official business should be handled,** in your personal recollection?

A **No, I don't.** I guess, one thing to add. **I know you didn't ask the question, but the White House, as well, never had a problem where we couldn't work an event out. I can't make it more clear...**¹³⁹

McMahon testified the political staff did not have input about agency policy decisions:

Q **So is it fair to say that the White House Office of Political Affairs did not have a seat at the table for the policy decisions being implemented by the agency?**

A **To my knowledge, no.**

Q **So when the agency is conducting its official business, it didn't utilize the input of the White House Office of Political Affairs?**

A **To my knowledge, no.**¹⁴⁰

¹³⁸ Mehlman Interview at 88 (emphasis added).

¹³⁹ McMahon Interview at 53-54 (emphasis added).

¹⁴⁰ *Id.* at 48 (emphasis added).

According to USDA's Anthony Hulen, the political staff did not attempt to influence the official business of the agency. He testified:

Q Do you have a recollection of anyone from the White House Office of Political Affairs **calling you on the phone or sending you an email trying to influence the official business of the Agency?**

A **No, I do not.**¹⁴¹

David Higbee, formerly the DOJ White House Liaison, testified:

Q Do you remember if anyone at the White House, any official, **whether from the Office of Political Affairs or a different office, asked you or any other White House liaison to take specific official action for the election or defeat of a candidate for elective office?**

A **I don't recall any type of requests like that.**¹⁴²

Higbee was asked about the discussions that occurred during meetings hosted for White House Liaisons at the White House. He was asked whether White House officials ever discussed with the White House Liaisons what official agency business, such as grant-making authority, could be conducted to benefit Republicans.

Q Was there ever any discussion by White House officials in these White House liaison meetings about . . . opportunities for supporting grants that are in districts with competitive Republicans?

A I don't recall anything like that.

Q Or any other types of specific official actions that can be done by the agencies to advance the election of Republican[s] that might be vulnerable?

A I don't recall anything like that.¹⁴³

¹⁴¹ *Id.* at 55 (emphasis added).

¹⁴² Higbee Interview at 42 (emphasis added).

¹⁴³ *Id.* at 52.

Higbee testified he felt no pressure or influence:

Q **Did you ever have a sense that the Office of Political Affairs was pushing you to be more political at the department than you wanted to be or than you felt comfortable being?**

A **No.**

Q **So there was no movement afoot at the White House to make the Department of Justice a wholly owned subsidiary of the Republican party, was there?**

A **I'm not aware of any such thing.**¹⁴⁴

The political staff did not have a supervisory relationship with the White House Liaisons. The political staff was not involved in official agency decision making. However, once an official decision had been made, such as an agency awarding a grant, the political staff made recommendations on when and how to execute press strategy. Mehlman testified:

Q **And to the extent there might be an opportunity after an official governmental decision has been made, if there is an opportunity for the Office of Political Affairs to draw attention to that decision, do press on that decision; that, in effect, is the time when OPA would get in the mix, so to speak, with announcements and public events?**

A **That's right. That's right.** I also think at the same time we were a place that decision makers could come, particularly decision makers in the White House policy shop, to ask what we thought the likely constituencies would be -- what the reactions of those constituencies would be with respect to public policies we took.

Q In terms of a grant announcement

A Yes.

Q **-- once a decision has been made inside an agency to make a grant, whether a press operation is carried out, whether that might include a public event or not is something that might come into play at the agency's press shop?**

A **Yes.**

¹⁴⁴ Higbee Interview at 57-58 (emphasis added).

Q **And perhaps the agency's press shop or their White House liaison might loop in the Office of Political Affairs?**

A **Yeah.**

Q **Is that fair to say?**

A **Yes. I would define that as the small P politics you were describing.**

Q Whereas the distinction of the Office of Political Affairs getting involved on the front end of a grant decision?

A Yes.

Q -- on the basis of helping elect a specific candidate is something that wouldn't ordinarily, if ever, happen?

A I think that is right.¹⁴⁵

Clarifying the distinction, Mehlman testified:

Q **So the Office of Political Affairs wasn't involved in the decision making process for grants and other official acts --**

A **We were not.**

Q **-- of the agencies?**

A **We were not.**

Q **Is it also fair to say that the Office of Political Affairs wasn't involved in the decision about whether to characterize**

A **That's correct.**

Q **-- a grant as an official act or a campaign initiative?**

A **That's correct. That would be the job of the Cabinet Secretary's office, including their counsel.**¹⁴⁶

Former member of the White House scheduling office Mindy McLaughlin testified neither her communications with White House Liaisons, nor her memos recommending travel were attempts to influence agency business. She testified:

¹⁴⁵ Mehlman Interview at 65-67 (emphasis added).

¹⁴⁶ *Id.* at 182 (emphasis added).

Q Do you ever remember a time when someone at the White House gave you instructions to direct the official business of an agency through your contacts with White House liaison?

A No. The only direction I had was that our rule was to take the requests that were received and put them together in organized, concise form and send that to the agency for their ultimate consideration.

Q So yourself and the surrogates scheduling -- you weren't involved with any of the official business of the agency in their decision-making process?

A No.¹⁴⁷

K. The So-Called "Asset Deployment Program"

On August 21, 2007, Chairman Waxman wrote numerous agency officials about whether there was a coordinated "asset deployment" program to further partisan Republican interests in advance of the election. He based his letter on a few emails written by staffers in the White House scheduling department. The scheduling department staffers had begun referring to a so-called "asset deployment team" or "asset deployment program." These emails were obtained by the *Washington Post* and on August 19, the paper reported about the "asset deployment" initiative:

[T]hat Karl Rove, the President's political advisor, organized an 'asset deployment team' that enabled the White House to coordinate the travel of Cabinet secretaries and senior agency officials, the announcement of grant money, and personnel and policy decisions' with the chief White House liaison from each Cabinet agency.

¹⁴⁷ McLaughlin Deposition at 70.

According to the documents obtained by the *Post*, the meetings of the asset deployment team occurred sometimes as often as once a month.¹⁴⁸ The *Washington Post* story reported:

Many administrations have sought to maximize their control of the machinery of government for political gain, dispatching Cabinet secretaries bearing government largess to battleground states in the days before elections. The Clinton White House routinely rewarded big donors with stays in the Lincoln Bedroom and private coffees with senior federal officials, and held some political briefings for top Cabinet officials during the 1996 election. Rove...pursued the goal far more systematically than his predecessors, according to interviews and documents reviewed by the *Washington Post*, enlisting political appointees at every level of government in a permanent campaign that was an integral part of his strategy to establish Republican electoral dominance.¹⁴⁹

The story compares Cabinet travel to using the White House as a fundraising tool. The two are distinctly different. While it is unlawful to use the White House as a fundraising tool, travel by members of the President's Cabinet is an essential function of building support for the President's agenda.

If this was a plan orchestrated by Karl Rove, as Committee Democrats have suggested, the White House Liaisons did not know it. No White House Liaison interviewed or deposed by the Committee knew what the term "asset deployment" meant. It was not used in the White House or within the Administration.

The *Washington Post* reported on an email obtained by the Committee concerning "asset deployment." The paper reported:

To lead the charge, Rove had his 'asset deployment team.' It comprised the chief White House liaison official at each Cabinet agency. The team members met – to coordinate the travel of Cabinet secretaries and senior agency officials, the announcement of grant money, and personnel and policy decisions. Occasionally, the attendees got updates on election strategies.¹⁵⁰

¹⁴⁸ Letters from Rep. Henry A. Waxman, Chairman, H. Comm. on Oversight and Gov't Reform (Oversight Comm.) to various agency heads (Aug. 21, 2007).

¹⁴⁹ John Solomon, Alec MacGillis, Sarah Cohen, *How Rove Directed Federal Assets for GOP Gains*, Wash. Post, Aug. 19, 2007.

¹⁵⁰ *Id.*

Mehlman testified the term “asset deployment” likely involved travel of the Cabinet. There were not, however, any “asset deployment” meetings.

It [asset deployment] means ensuring that you get a sense of the various assets that the administration has that can help advance the President's agenda, and also could, in other cases, help advance his politics, and you would deploy them in an appropriate way.

Q In your tenure at the White House, were there ever asset deployment meetings?

A I don't recall calling them -- what we did a lot of was asset deployment. So there were many meetings where we would discuss those issues, but I don't recall a meeting -- **I don't recall an "asset deployment" meeting that we called an asset deployment meeting.** But we were discussing -- maybe a little bit of a semantic distinction -- we were discussing deploying assets in an appropriate way often.

Q **So, in your tenure at the White House, there wasn't an asset deployment team of White House staffers that worked specifically on asset deployment?**

A **I don't recall a team that we called asset deployment.** I viewed a lot of what our office did as being deploying assets on behalf of the administration and making sure that that was done in an appropriate way. I recall working with White House liaisons and chiefs of staff. They were part of from a broadly defined asset deployment effort. But I don't recall people saying, you are on the asset deployment team. I just recall doing it.

Q **So you don't remember if there was a team captain for the asset deployment team?**

A **I do not remember that.**¹⁵¹

¹⁵¹ Mehlman Interview at 105-106 (emphasis added).

Former Political Director (2003-05) Matt Schlapp testified the meaning of “asset deployment” is ambiguous. It mostly concerned identifying a surrogate to speak on behalf of the President or the Administration.

My recollection of asset deployment was there was a desire by some folks in the administration and staffers on the Hill and other allies to get involved in races or whatnot [sic]. And there was always this question of what's the appropriate way to do it. How do you do that? If somebody works at the Department of Labor and wants to take off a week and go help a candidate he or she cares about, how do you -- what's the appropriate process to do that? That's how I understood asset deployment to mean.

Q Okay. So these asset deployment meetings would have been discussing the assets of, I take it, then, a number of different people from different places assisting on specific campaigns?

A Well, that's what I -- that's how I recollect what we meant by asset deployment. I don't know specifically what this -- if this is the same use of the term here or not.

Q Do you know whose idea these asset deployment meetings were?

A I don't. I don't.

Q Do you recall who was invited to them?

A Well, I mean, this looks mostly to me like they were mostly White House liaisons.

Q Are you saying that these --

A I'm sorry telling you I don't really recall the -- **I don't recall these [the so-called asset deployment meetings] being regular meetings,** and I don't recall this meeting. But it had been a long time since I might have seen this email, so I just -- I don't know specifically what the intent was.¹⁵²

¹⁵² Schlapp Deposition at 117 (emphasis added).

Q The terminology "asset deployment team," was that used frequently? Was that a term that you were -- was well-known to you? We talked about it earlier today in terms of this Adrian Gray was getting together an asset deployment meeting. Do you have a recollection whether that was a commonly used term?

A I think that email seems to indicate that people might have used the term for different initiatives or to describe different activity.

Q Because when it was first presented to you, you started talking about . . . the individual Schedule Cs going out, and campaigning as part of a 72-hour program. Then you looked at it a little bit closer and you said, oh, wait. This is the surrogate scheduler; maybe they're talking about something different.

So I just wanted to ask you -- I didn't have a chance my last round -- **is this terminology, asset deployment, something that was commonly used?** Little used?

A **I think it might have been more commonly used than I initially remembered to maybe describe different things. Getting people to do stuff. Another term that we might have used would have been called like "flood the zone" came up a couple times.**

Q **And what did that mean?**

A **Once again, my recollection of it was that would have been having surrogate spokespeople and spokespeople in the administration go out on a given topic and try to have communications events and events across the country.**¹⁵³

¹⁵³ *Id.* at 197-198 (emphasis added).

Mindy McLaughlin, a former member of the White House scheduling office, was not aware of the term “asset deployment” in the context of using government resources to benefit Republican candidates. Following is her testimony:

Q There's a term that's been reported on the newspaper flowing from some of this email that the committee has obtained that's called asset deployment. Subsequent to learning about this term, the committee launched an investigation into whether and how this . . . asset deployment was used to potentially marshal the official resources of the government to benefit Republicans. Have you ever heard of that term before, "asset deployment"?

A I have heard the term, but, to the best of my recollection, that is not something that I heard or used in my time at the White House.

Q Do you remember if there was a specific initiative regarding asset deployment, deploying assets?

A No.

Q So this wasn't a Sara Taylor initiative, this asset deployment team, to the best of your recollection?

A No. I think that our wish was that when events were requested of the Cabinet that we were able to do it in an organized and concise way, put together those requests together for them and pass them on. And they would make those decisions of their own choosing, without pressure or fear of any sort of punishment if they don't do them.

Q So, to the best of your recollection, there wasn't an asset deployment team that met and figured out how to deploy assets?

A Not to my knowledge. The memos that were sent that would detail the requests were really the only way that the agencies would have seen the breadth of the requests we were asking them of.

Q So it is also fair to say that you never attended any asset deployment team meetings?

A Not that I can recall.

Q And do you ever recall any meetings internal to the White House where an asset deployment team or task force was impaneled?

A No.

Q So to the best of your recollection there's nobody at the White House that was in charge of the asset deployment strategy or team?

A Not to my recollection.

Q No team captain for asset deployment?

A Not that I can recall.

Q We've heard the term asset deployment in all 30 or so agencies that are on the receiving end of correspondence that have been asked to search for documents relating to asset deployment, and so I -- you said that you never really heard much of that term; is that fair to say?

A That is correct, to the best of my recollection. It's not what we would have termed the request of our administration surrogates.

Q **So it's possible that asset deployment may have been one way of describing something. It wasn't a specific concept. . . . the capital A asset, capital D deployment, with the PowerPoint slides . . . the asset deployment team, that type of thing.**

A **From my time in the White House, I don't recall seeing that terminology. I don't recall hearing it or really seeing it anywhere.**¹⁵⁴

¹⁵⁴ McLaughlin Deposition at 70-73 (emphasis added).

Former Deputy Political Director (2005-07) Scott Jennings testified he was not familiar with the terminology “asset deployment” prior to the *Washington Post* story:

Q We have seen references in the *Washington Post* and in some emails to asset deployment meetings or an asset deployment team that involved White House officials and agency officials, such as White House liaisons or chiefs of staff. **Were you aware of any asset deployment meetings when you were at the Office of Political Affairs?**

A **No. I had not heard that term until I read it in the newspaper.**¹⁵⁵

Former Department of Justice White House Liaison David Higbee, one of the recipients of an email using the words “asset deployment,” was unsure of the meaning. He testified:

Q Okay. He refers in the email to an asset deployment meeting. **Do you know what that specific meeting was about or what asset deployment meetings as a whole were about?**

A **I don't know what these were about. I don't recall --** where did this meeting take place?

Q In the Eisenhower Executive Office Building on October 1st.

A I don't recall attending this meeting. I don't know if I attended it. And I don't know what it was about. I don't know if this was about the White House deploying assets. That's what it is called, asset deployment meeting. So I'm speculating based on looking at the document.

Q **Do you have any idea what assets the White House would have been deploying?**

A **I don't know. In the business of people or in the business of -- I mean, when I think of assets, I think of money and people, and people is what comes to mind if they're talking about getting a bunch of people together.**¹⁵⁶

Susan Richmond Johnson, Higbee’s successor as White House Liaison at DOJ, did not recall an “asset deployment” initiative.¹⁵⁷ She testified:

¹⁵⁵ Jennings Interview at 38-39 (emphasis added).

¹⁵⁶ Higbee Interview at 70 (emphasis added).

¹⁵⁷ Johnson Interview at 64-65.

Q I understand you don't recall this specific asset deployment meeting. Do you recall attending any other meetings referred to as asset deployment meetings?

A I don't.¹⁵⁸

USDA White House Liaison Anthony Hulen had only heard the term "asset deployment" twice. He testified:

Q Other than the correspondence with our committee -- and I think there was one Washington Post article where Mr. DeBerry was quoted in -- have you ever heard the term, "asset deployment"?

A That was the first time I had ever heard that term, was reading that article.

Q ...So to the best of your information, the asset deployment program wasn't something you were familiar with before you saw it in The Washington Post?

A No. Correct. That is the first time I had seen the term or heard of the program, so to speak.

Q So prior to the news article, you don't have a recollection, during the 2006 midterm election season, of anyone from the White House dialing you on the phone about the asset deployment program, using those words?

A No. No such call.

* * *

I had heard the term, "asset deployment," a few days before the Post article had come. Our Communications Department had gotten a call from the Post reporter, now that I recall, and had mentioned that term. And they had contacted me, asking what I knew about asset deployment, and my response was, "Is that a military term?" That was the first I'd heard of it.

Q Oh, no problem. So the actions that were described in the Washington Post article, the White House basically assisting candidates for re-election through travel or public events, was that a practice that you were aware of?

¹⁵⁸ *Id.* at 84 (emphasis added).

A . . . I couldn't speak to what the White House was doing. I can only speak to the role I played in informing them of the requests we had and they, in turn, informing me of the requests they had.¹⁵⁹

Former Department of Transportation White House Liaison Lori McMahon thought “asset deployment” referred to the party’s get-out-the-vote initiative. She testified:

Q And are you familiar with the term, "asset deployment"?

A I've heard the term.

Q Do you know when you heard it?

A Probably during the Bush-Cheney campaign, I bet.

Q And what does it [asset deployment] mean?

A I believe, in my opinion, it applies to the get-out-to-vote program, where people volunteer on their own personal time to go out and help a particular candidate.¹⁶⁰

¹⁵⁹ Hulen Interview at 58-59, 62 (emphasis added).

¹⁶⁰ McMahon Interview at 31 (emphasis added).

VII. Political Briefings by the President's Political Staff to the President's Political Appointees

A. Purpose of the Briefings: Update the President's Political Appointees on the Political Environment

The political briefings served two purposes: 1) to say thank you to the political appointees for their hard work; and 2) to inform political appointees about the political landscape. For the most part, the briefings occurred after 5 p.m.¹⁶¹

President George W. Bush's first White House Political Director Ken Mehlman testified about why the Administration decided to provide political appointees with the information contained in the political briefings. He testified:

Well, when I took the job, some previous political directors said to me . . . it's really important to keep folks in the loop and briefed, and suggested a number of different things. **But I think that the objectives are, number one, obviously to remind people that we are all one team and that we all have a common mission.** It's easy, unfortunately, in Washington, whether it's up on the Hill or in an agency, for people to suddenly forget the big picture. And that was important to us, number one. **Number two, a lot of these folks were folks who had worked on the first campaign. They were friends. They viewed themselves as part of a larger family. And to make them feel connected was important,** particularly because of what happened on 9/11, which was, in my opinion, the President's ability -- if you look at previous administrations, the President spent more time -- . . . 41 got his picture with every schedule C. This President didn't have the time to do that. And so making people feel a link to the person they are working for I thought was an important thing to do. **And third, I thought that they could do their job better, which is to accomplish the President's agenda and provide more support for the agenda if they knew where we stood with the agenda. And fourth, because these are political people in many -- in all occasions, is to make sure that they had an appropriate and effective way to be politically active.**¹⁶²

¹⁶¹ Schlapp Deposition at 97; Taylor Deposition at 132, 143-145.

¹⁶² Mehlman Deposition at 99-100 (emphasis added).

Mehlman's deputy and the successor as White House Political Director Matt Schlapp characterized the purpose of the briefing in this manner:

I think the main purpose was to grasp this concept that you had all -- we've talked a little bit about the personnel process. This process is made up of a lot of individuals who go to agencies and find themselves in environments that are new and confusing. And they're trying to master what's happening in these agencies, and they're trying to make sure the President's agenda gets implemented.

And I think the most important thing [about holding the briefings] was just to remind them that they're part of a greater cause, that they are a part of the President's administration and they should take pride in that. And there was also probably . . . in the early part of an administration a little bit of mystique about the White House and what happens there.

And we wanted to let them know that it was -- they were part of the effort. And so we would explain to them . . . what the President's focus was what issues he'd be focusing on, how that might be communicated, and then obviously a conversation of what was happening in the political landscape, which is, I think we all know in Washington, part of the whole process.

And to thank them -- I'm sorry, I didn't mean to go on, but I mean to thank them for their service. That was important. I mean, some people take pay cuts to go into government, and some people work longer hours when they come to government. And I think it was -- it was certainly consistent with Ken Mehlman's values, and I think mine, to salute what they were doing.¹⁶³

Schlapp testified part of the purpose of the briefings was to discuss the President's agenda and how a change in Congress, even just one key race, could affect the success of his agenda. He testified the briefings were not aimed at helping or hurting one individual candidate:

Q Do you ever have a recollection of talking about a specific candidate and the types of specific things that could be done to advocate for the election of a specific candidate?

A I don't. I don't recall doing that.¹⁶⁴

Schlapp characterized the briefings as a "morale booster." He testified:

¹⁶³ Schlapp Deposition at 98 (emphasis added).

¹⁶⁴ *Id.* at 134.

I think I described earlier that this was -- part of what you're trying to satisfy by doing the briefings is people would feel disconnected when they're at an agency. They feel disconnected from what the President's agenda was, what's their role in that, they want a pat on the back, all those types of things. I think he even says here, "morale booster," in his subject line. That was probably a good description of one of the main purposes of the briefing.¹⁶⁵

Schlapp's successor as White House Political Director (2005-07) Sara Taylor testified:

Q Was there a standard presentation that you started out with?

A It would just...I would just tailor it. I may have given the same...presentation at two different agencies. If I didn't have time to -- I tried to make it interesting for people and informative and respect their time by doing so. But...sometimes my schedule didn't allow for me to devote the kind of time I would have liked to have doing the kind of research I like doing to help educate them on how what they do impacts the public debate and helps implement the President's policies.

Q Was that the reason for the briefing?

* * *

A The purpose of the briefing was really three-fold. The first was to say thank you to these appointees, thank them for serving the President, thank them for working as hard as they do to help implement the President's policies...Another reason would be to talk about the President's policies, what's going on with the President or the Vice President around the time in which I spoke, what they would be doing, what they would be talking about, how their agency would fit into that, how their work was important. And then thirdly, given my unique sort of vantage -- given my sort of unique role in the White House, I would give them . . . an update on the political landscape in America and what that meant for implementing the President's policies, was it . . . what the impact would be on our collective ability to help the President achieve his goals.¹⁶⁶

Scott Jennings, Taylor's deputy, presented a limited number of political briefings to the agencies. He testified:

¹⁶⁵ *Id.* at 151-152 (emphasis added).

¹⁶⁶ Taylor Deposition at 74-75 (emphasis added).

...they [the political briefings] were informational; they were designed for . . . to let appointees know that the White House was appreciative of their efforts as political appointees in the administration. So...like a morale-boosting tool. And I remember the briefings I attended that Sara [Taylor] gave, she was very forthcoming and saying to appointees we really appreciate your service...we want you to know the White House cares very much about the good work you are doing and appreciates your time. That was a key message of Sara, and so I adopted that as well as a key message in the things that I would say.¹⁶⁷

According to Department of Agriculture White House Liaison Anthony Hulen, there were two separate political briefings given to USDA, one for the Secretary and his close advisors and a separate one for Schedule C appointees. Hulen testified it was a morale booster and the content of the briefings were of interest to Schedule C appointees:

The appointees who...came to that meeting and stayed for the briefing...to them -- there are appointees who in many instances are on their own time politically active and...they like to know what is going on as well outside of what they read in the media. And...part of the other thing in my role as the White House Liaison is...I'm kind of a morale officer. And for the Schedule Cs...many of which never get any contact with a White House official, no matter at what level, for them to come and hear a briefing, a permissible briefing after hours from a White House official, for lack of a better term, it was kind of cool for them...

* * *

I would say that for the briefing as a whole, not just the information given on the races. I mean...they are appointees -- through the Secretary appointees of the President and they like to know what the public's thoughts on the President's job is. A number of them...have workings with Congress. They like to know what Congress -- so, and the overall briefing, they like to have that information.¹⁶⁸

¹⁶⁷ Jennings Deposition at 18 (emphasis added).

¹⁶⁸ *Id.* at 20-21.

The political briefings provided Cabinet Secretaries and their top aides with information concerning the political landscape. This background information, according to Hulen, allowed the Secretary of Agriculture to understand the “big picture”:

Q I guess what I'm getting to...is politically appointed folks, leadership of the agency...can't be operating the -- one of the largest and most important Cabinet agencies without an understanding of political landscape. Is that something you would acknowledge?

A Again, as I mentioned earlier, yes. That was part of the big picture. Albeit a small part of it, that is part of the big picture. And not just going there, but anywhere.¹⁶⁹

B. Who Initiated a Political Briefing?

In many instances the agencies contacted the President’s political staff and requested a political briefing. According to Sara Taylor’s testimony, the briefings were often initiated by the agencies.

Q **A lot of the emails produced to us show that a lot of the agencies asked your office for these briefings. Were you familiar with those types of requests?**

A **I was familiar with...the fact that people would ask me to come speak and that I ...tried to be cooperative and do those, and that I...wanted to speak to them, too, so that I could . . . talk about the President and what he was doing, thank them,** share with them my views on the political landscape if they found that helpful, and I think most of them did, so –¹⁷⁰

¹⁶⁹ Hulen Interview at 44.

¹⁷⁰ *Id.* at 126 (emphasis added).

The fact that agencies initiated briefings was corroborated by the testimony of former Deputy White House Political Director Scott Jennings. He testified:

A **Well . . . I was invited by a White House liaison at an agency to do the political briefings in some cases,** so . . . I would think they would -- it would be considered in my official capacity.¹⁷¹

Jennings testified the agenda for the political briefings were drafted by the agencies.¹⁷²

Taylor spoke at USDOT as part of a speaker series begun by Deputy Secretary Maria Cino.¹⁷³ According to former USDOT White House Liaison Lori McMahon, Cino initiated the series. Attendance was not required.¹⁷⁴ McMahon testified about Cino's vision for the speaker series:

[T]o be something where folks at the Department of Transportation could learn about people who worked at the White House or people who worked in the administration, other agencies. And so it was really an opportunity to, sort of, foster understanding of what people did in Government.¹⁷⁵

The Department of Labor White House Liaison Anthony Hulen testified that the Secretary wanted the political appointees to be aware of the political landscape. Hulen explained:

The Secretary I believe had requested an update -- excuse me -- a briefing, to get an eye on the landscape that was out there so that he could have that bit of knowledge to work in with the policy -- part of the policy strategy that we were executing, you might say, very well at the time across the country on the policy objectives that the President had tasked us to execute, the agriculture -- let me be very clear -- the agriculture policy objectives.¹⁷⁶

The documents and the testimony show the President's political staff was not involved in the decision making aspect of the Cabinet departments.

C. Content and Audience

¹⁷¹ Jennings Interview at 13 (emphasis added).

¹⁷² *Id.* at 161-163.

¹⁷³ McMahon Interview at 18.

¹⁷⁴ *Id.* at 20.

¹⁷⁵ McMahon Interview at 18-19.

¹⁷⁶ Hulen Interview at 14-15.

As far as the content of the briefings, Taylor testified:

This is -- this is the landscape of America [from a political standpoint]. Here's what's happening. Here's where people are focused, here's where the President's traveling. Here's why he's traveling there. That's the nature of the briefing.¹⁷⁷

Taylor, who gave numerous political briefings, testified the briefings contained publicly available information and the content was related to issues in the news.¹⁷⁸ She testified rather than focus on one particular race or candidate when discussing elective politics, she focused on what the agencies were interested in and what the President was talking about in relation to what agency received the briefing.¹⁷⁹

According to Jennings, the political briefings contained an overview of what issues were important in various geographic regions and discussed the implementation of the President's agenda. To the extent elective politics were discussed, they were an aspect of the overall initiative of building support for the President's agenda and working with the Congress. Jennings explained how the two are connected. He testified:

I thought a discussion about the sort of state of affairs in the Nation...how it affected the President's policies and...policy agenda...the political affairs landscape, how it affected the policy agenda was appropriate...there was a number of different indicators for that. I remember we talked a lot about economic indicators, for instance, and how those might affect what was going on with sort of the state of affairs from the policy perspective...**I considered them [the political briefings] to be fairly comprehensive overviews of the state of...political affairs in the Nation and how it was affecting the President's policies and agenda.**¹⁸⁰

* * *

¹⁷⁷ Taylor Deposition at 103.

¹⁷⁸ *Id.* at 131.

¹⁷⁹ *Id.* at 171-172.

¹⁸⁰ Jennings Interview at 22-23 (emphasis added).

I think these briefings were comprehensive in nature. And so this sort of simple, and I would say simplistic, forecasting was part of a comprehensive overview of political affairs. And certainly I think -- I remember saying on occasion during my briefings that given the fact that there were -- as I think everyone knows -- **there are very few Members of Congress who wind up in what you all would consider to be close races, that those were the folks who might be prone to the most pressure when it comes to policy matters. And so I think there was some definite belief that if...you found yourself in a sort of a close political situation, that you were going to end up becoming a . . . a possible target on a policy matter. . . . maybe we're trying to extend the President's tax cuts, and so we are looking for Democrats in conservative districts who might want to get on record as supporting tax cuts.** That is an example. And I certainly remember having points about that in my briefings. So that is an example.¹⁸¹

Jennings testified he provided the necessary political background for the President's appointees to implement administration policy and to understand where opportunities exist for bipartisan compromise. Such knowledge and understanding is central to building support for the President's agenda.

Schlapp made mention of a similar concept in his testimony:

Well, the White House's agenda was only effective if the House and Senate were going to be supportive of it. So having an understanding of what was happening in the House and Senate seemed once again logical to include in the briefing. They didn't get to make those decisions on their agenda...separately or alone.¹⁸²

At the briefings, agency personnel were asked to be mindful of the Hatch Act, and to consult with agency counsel whenever necessary. Mehlman testified:

As I recall, one of the lines I used to always try to use, and I hope I used, and I think I used it as a matter of course to say was, if you have to choose between losing and in any way violating the rules, the spirit or the letter of the rules, lose. And I said that because I thought it would be dramatic for them to hear the White House political director advocate losing.¹⁸³

¹⁸¹ *Id.* at 23-24 (emphasis added).

¹⁸² Schlapp Deposition at 106 (emphasis added).

¹⁸³ Mehlman Interview at 104-105 (emphasis added).

When delivering a political briefing, Schlapp regularly advised agency personnel to consult with their general counsel's office.

Q **Was it part of your presentation to help the folks in the audience understand that it was a good idea to talk to their counsel's office if they had any questions?**

A **Absolutely, absolutely.** I think we would reiterate that. I would reiterate that.

Q **So you did have a pattern of practice of helping people remember that it was a good idea to talk to their counsel if they had any questions?**

A **Yes.**¹⁸⁴

Taylor consulted with White House Counsel about the appropriate audience for a briefing and then when delivering the briefing she would urge attendees to consult with their agency counsel if they had specific questions.

Q Would you ask White House Counsel about the components of the **audience** you're addressing if it's an agency?

A Yeah. **As a general rule . . . we try to do them [the political briefings] to the political appointees in the agency.** [T]here w[ere] occasions where I may have been asked to come meet with sort of like the senior staff. But as a general rule I...would generally talk to them before I did it. . . . again, I mean I don't talk to them every single time. But as a general rule, I would speak to them and had sort of -- I knew their guidelines, I knew the things that they thought were...important, . . . distinctions about a conversation and...things so I...became pretty familiar with any concerns that they might have.

Q Did you have different rules for what you could say in a political briefing to different categories of political appointees?

A I believe that if you -- as a -- I only did one like very senior briefing...I try to just be consistent because...it was easier to be consistent on the conservative side than to try to be...figuring out if someone was an SES or a schedule C. ...I just never really knew -- ...I would just err on the side of caution generally.

Q How about if the audience were a [presidentially appointed, Senate confirmed official]?

¹⁸⁴ Schlapp Deposition at 139 (emphasis added).

A Yeah. I might have done one of those but I don't, . . . -- or we scheduled one and it got canceled. As a general rule I just did the agency political stuff and who wanted to be there.¹⁸⁵

Q **What steps did you or anyone else from the White House take to ensure that agency officials didn't come away from your presentation with the impression that the White House wanted them to consider these highlighted congressional races?**

A **Well, one thing, if someone ever -- and again, I don't recall specific questions about this. But what I would always do if someone asked a question that I didn't know the answer to . . . I would ask them and suggest to them that they just speak to their counsel's office. . . . if you have a question about something, speak to your counsel's office. They can tell you what...is appropriate and what is not. It's not for me to determine. I'm simply here to say...thank you.** Here's how the President's spending his time. Here's what he's working on. . . . they're sort of interested in my perspective on politics. What is it that you tell the President? What is it that you tell the Vice President about? If they read all this stuff in the paper, they're sort of curious, I would just sort of outline my views on the political landscape in America.¹⁸⁶

USDA's Hulen testified the Secretary would decide who attends political events. According to Hulen, the Secretary regularly checked with the agency's General Counsel's office about the propriety of agency personnel attending these political briefings.¹⁸⁷

¹⁸⁵ Taylor Deposition at 88-89.

¹⁸⁶ *Id.* at 101-102 (emphasis added).

¹⁸⁷ Hulen Interview at 15, 25-26.

Taylor made it a practice to refer agency personnel to their counsel's office. She testified:

I don't recall any specific question. I mean, **as a general rule, if I didn't think I should answer their question, I would just punt it to their counsel. I would say, you should talk to your counsel about that.**¹⁸⁸

Jennings testified he advised appointees to check with counsel before volunteering for a campaign during their personal time. Discussing the question and answer period at the end of a political briefing, Jennings testified:

Q In the course of the question-and-answer session at the agencies, did you ever get any questions about, "Hey, how can I help get involved with a campaign?" from any of the political?

A I don't have any -- I can't pinpoint one specifically; but yes, I remember that...**from time to time, people [appointees] would say..."What if I want to volunteer?" Maybe that's a good example. Again, that was another good example of saying, "Whatever you do, don't do anything without checking with your counsel; don't use government resources; don't have it interfere with...your government service; and follow all the rules as they've been laid out for you at your agency."**¹⁸⁹

Jennings testified what the "ground rules" were as he delivered them to appointees:

Q **What were those simple ground rules?**

A **As I said earlier, Sara and I were very cognizant of making sure that people knew that there were rules regarding...any potential political activity that people might engage in...first and foremost, if you have any questions, check with your counsel; make sure you don't engage in political activity on government time or use government resources...make sure you're not violating anything that your counsel may have laid out for you in any kind of briefing you got when you became an appointee.**

So it was pretty simple, and at the head of it was, always, don't do anything you think is questionable; make sure you check with your counsel so that you're following all of the rules.¹⁹⁰

¹⁸⁸ Taylor Deposition at 148 (emphasis added).

¹⁸⁹ Jennings Interview at 138 (emphasis added).

¹⁹⁰ *Id.* at 152-153 (emphasis added).

D. The “Targets”

Witnesses were questioned about the use of the term “target” or “target races.” The meaning is ambiguous but the testimony shows the term target was used to describe closely contended races or races with vulnerable candidates.

Mehlman described “targets” as follows:

Q What did you mean when you said we want to discuss targets?

A We wanted to discuss the races, the places -- A, the races that are likely to be the closest; B, the races where help is most important and needed; and C, the places where different public policy issues were likely to have resonance with people, and therefore with voters.¹⁹¹

Mehlman testified certain regions were “targets:”

Q [T]he President in 2001-2002 did a lot of travel back and forth to Pennsylvania?

A Yes.

Q **And so there are States that are identified as target regions for the President to spend a lot of his time and focus on?**

A **There are. And in some cases, in many cases, if you stop and you think about Pennsylvania, for instance, they are at most small P politics, but truly issue related.** Think about it. In the '02 cycle you did not have a competitive -- particularly competitive Governor's race in Pennsylvania. You did not have a Senate race in Pennsylvania that was occurring. What you did have, though, that was not even small P politics, was one, you had a mayor, John Street, who was a huge proponent of one of the biggest initiatives the President had, which was the faith-based initiative.¹⁹²

Taylor testified “targets” had to do with economic indicators and the effects those have on the political environment.¹⁹³ She testified target races were races identified by professional political analysts:

¹⁹¹ Mehlman Interview at 127.

¹⁹² *Id.* at 168 (emphasis added).

¹⁹³ Taylor Deposition at 109-110.

Q How did you put together your list of races to highlight? Some cases they're actually called target races.

A Yeah. I mean "target" is sort of a nebulous word. Target is...I read the Charlie Cook Report and the Stu Rothenberg Report...And so I have all this information and sometimes I just use public data and sometimes...I might...compile it in one sort of...area so that I kind of have a sense...you develop trends when you read a lot. So like everybody says this person...is in a tough race. . . .¹⁹⁴

McLaughlin testified the President's political staff maintained a target list. According to McLaughlin, the list contained the names of individuals who were political allies of the President, who were in tough elections, and therefore, individuals the President's political staff wanted to support on behalf of the President.¹⁹⁵ McLaughlin testified the political briefings were not for the purpose of instructing agency appointees on how they could assist candidates on the "target list." She testified:

Q Did the political briefings at agencies ever include suggestions about how people could support the President's allies?

A In terms of the presentations that I witnessed, the only time I can recall anything of that nature coming up would have been during the Q and A section that happened at the end of the briefings where the attendees had an opportunity to ask whoever was presenting that day any sort of questions that they had. And sometimes I can recall attendees asking specific questions about races. I recall it as being generally based around their home State or their home district, and occasionally I do remember attendees asking how they could be involved or how they could help.

Q And do you recall how these questions were answered?

A My recollection is that the presenter would refer them to the Republican National Committee for more information. I recall them saying that it wasn't something they could discuss at that venue.¹⁹⁶

¹⁹⁴ *Id.* at 106-107.

¹⁹⁵ McLaughlin Deposition at 97-98.

¹⁹⁶ *Id.* at 99.

When Jennings was asked why he discussed certain elections, he testified if a candidate was in a tight election, he or she might become a “target” on a policy matter. Jennings testified:

Q Why were you including in there the discussion of future congressional elections?

A [I] think these briefings were comprehensive in nature. And so this sort of simple, and I would say simplistic, forecasting was part of a comprehensive overview of political affairs. And certainly I think -- I remember saying on occasion during my briefings that given the fact that there were -- as I think everyone knows -- there are very few Members of Congress who wind up in what you all would consider to be close races, that those were the folks who might be prone to the most pressure when it comes to policy matters. And so I think there was some definite belief that **if...you found yourself in a sort of a close political situation, that you were going to end up becoming...a possible target on a policy matter...** maybe we're trying to extend the President's tax cuts, and so we are looking for Democrats in conservative districts who might want to get on record as supporting tax cuts. That is an example. And I certainly remember having points about that in my briefings. So that is an example.¹⁹⁷

Hulen testified the political briefings had nothing to do with advancing elective politics or how agency appointees could assist candidates in their election efforts:

Q Would these political briefings that were supplied to some of the folks at the agency, **do you ever recall a discussion down at the candidate level of the types of things that can be specifically done at the agency level to advocate --**

A **Absolutely not.**

Q -- **for the election or defeat of a specific identified candidate?**

A **Sorry to interrupt you there. Absolutely not. That was not discussed.**

¹⁹⁷ Jennings Interview at 23-24 (emphasis added).

Q Did anyone from the White House Office of Political Affairs ever come over to USDA for one of these briefings and talk to you about soliciting funds for a particular candidate?

A No.¹⁹⁸

Although races and candidates were identified, the presenters did not advocate for the election or defeat of a specific candidate.

E. Briefings Approved by Counsel

Several witnesses who prepared the political briefings testified they had the content reviewed by the White House Counsel's office. Emails show Mehlman regularly contacted the counsel's office. He testified:

As you can see, Mr. Kavanaugh [former associate counsel to the President] briefed them, each of the agencies. And anything that I would do at an agency, my approach would be, my -- as a matter of course, I would always -- my assistant would, **as a matter of course, always try to, first of all, visit with Mr. Kavanaugh on invitations that I received to do things on my schedule, and also on briefings that I was going to be providing.**¹⁹⁹

Mehlman further testified:

Q And you mentioned, before you went out to an agency, you ran the slides by the White House Counsel's Office?

A Yes.

Q And did the White House Counsel's Office approve every -- on a slide by slide basis?

A Yeah. The approach I would take, that I recall taking, was my assistant or I would take it down there and he would edit it or change it.

Q And if you were going to add some new information, you would bring him in the loop?

A That was the approach we tried to take, yeah.

¹⁹⁸ Hulen Interview at 46 (emphasis added).

¹⁹⁹ Mehlman Interview at 85-86 (emphasis added).

Q And was it your understanding that the lawyers and the White House Counsel's Office had an understanding of the Hatch Act?

A Yeah. I mean, that's their job.²⁰⁰

Schlapp, Mehlman's successor, testified he had the political briefings cleared by the White House Counsel's office. Schlapp said:

Q How did you instruct your staff who was preparing the briefings on what would be appropriate or inappropriate content to include in those briefings?

A **Well, it was a briefing that would have been run by the counsel's office. So we would have had legal opinions on what would be appropriate to talk about or not appropriate to talk about or, once again, general parameters.** So I probably wouldn't have been the person -- I'm not a lawyer and I would not have been the person to kind of tell them exactly what you should and shouldn't do. But the presentation itself was worked . . . in coordination with that office, the counsel's office. **So we felt confident in the advice from the lawyers and that what was included was appropriate.**²⁰¹

He testified he had the counsel's office review the briefings:

Q Did you run all of the presentations by the White House counsel's office?

A That was our general practice. It wasn't necessarily the practice for me to do it, but it was the practice for somebody in our office to do it, like maybe my assistant or somebody.²⁰²

Schlapp consulted with White House Counsel on a number of issues surrounding the briefings and from time to time, counsel would make edits to the content of briefings.²⁰³ He discussed with counsel the bright line rules against soliciting funds on government property and engaging in campaign work on government time.²⁰⁴ Schlapp counseled agency personnel to seek the advice of their agency's general counsel's office prior to engaging in any sort of political activity.²⁰⁵

²⁰⁰ *Id.* at 100.

²⁰¹ Schlapp Deposition at 94 (emphasis added).

²⁰² *Id.* at 94-95.

²⁰³ *Id.* at 95-96.

²⁰⁴ *Id.* at 96.

²⁰⁵ *Id.*

Taylor testified she had interactions with the White House Counsel's office about the political briefings delivered at agencies. She stated:

But what I would do usually when giving the PowerPoint to an agency is I would just talk to the White House Counsel's office about it, allow them a chance to give their feedback, make any edits that they thought should be made, just to make sure everything was being done in an appropriate manner or we weren't...doing something that was not appropriate. And so as a general rule I would just talk to them [White House Counsel].²⁰⁶

Taylor testified she conferred with Counsel after she made changes to the presentation:

And so I would as a general rule run it [the briefing slides] by the counsel's office and the White House to make sure that...if I had done something differently in a previous presentation and I wanted to use it in the new one that I would -- that it was fine to use it or it wasn't fine to use it. And I just tried to ask them [White House Counsel] whenever I had a question.²⁰⁷

Taylor testified she instructed Jennings that he too was to clear the political briefing slides with the White House Counsel's office.²⁰⁸ Jennings testified it was his understanding the slides were reviewed by the White House Counsel's office.²⁰⁹

When questioned about his awareness of Taylor's interactions with White House Counsel, Jennings testified:

Q Do you know if there is anyone within the White House Counsel's Office who was sort of in charge of the Political Affairs' portfolio? You don't have to give the name, but was there --

A Oh, yes. Yeah, I remember. Yes.

Q So it's fair to say that Political Affairs officials, whether it be Ms. Taylor or yourself -- if you had any questions, you had access to the White House Counsel's Office to ask them?

A Yes.

Q You testified that it was your understanding that Ms. Taylor, in fact, exercised that option, and she conferred with

²⁰⁶ Taylor Deposition at 85.

²⁰⁷ *Id.* at 85-86.

²⁰⁸ *Id.* at 89-90.

²⁰⁹ Jennings Interview at 54-55.

counsel to make sure that everything was being done appropriately?

A Yes.²¹⁰

According to Hulen, he consulted with his agency counsel about the propriety of holding a political briefing prior to scheduling such a briefing at USDA.²¹¹ Counsel advised there was no issue with holding such briefings.

F. What Did Not Occur at Political Briefings

By investigating briefings concerning the political environment delivered by the President's political officials to the President's political appointees, Committee Democrats imply *per se* wrongdoing. The facts, however, show the briefings contained simply basic information about the current political environment.

Mehlman testified fundraising was never discussed:

Q In discussions with the schedule C's and the political appointees, did you ever make a recommendation that they ought to be contributing money

A No.

Q -- to the election campaigns of competitive

A Absolutely not.²¹²

Schlapp testified the briefings were not for the purpose of asking political appointees to contribute to campaigns:

Q Did you ever ask any of the political appointees that you spoke with to contribute money for the election of any specific candidate?

A No.²¹³

Taylor testified when her or her staff delivered the political briefings, they never advocated the election or defeat of a candidate for office, never solicited money, and never asked political appointees to work on a campaign.²¹⁴ These topics were just not

²¹⁰ *Id.* at 144-145.

²¹¹ Hulen Interview at 25-26.

²¹² Mehlman Interview at 103.

²¹³ Schlapp Deposition at 135-136.

²¹⁴ Taylor Deposition at 133-134.

discussed. She said any questions that were asked during the question and answer segment at the end of the briefing mainly involved why the President was talking about one topic over another or the appointee's home state politics.²¹⁵

Jennings, who delivered approximately ten political briefings for Taylor, testified he never asked U.S. General Services Administration (GSA) appointees, for example, to contribute to campaigns:

Q Did you ever ask the GSA folks [attending the political briefing] to contribute money to these Members?

A No.²¹⁶

In addition to not soliciting funds, the President's political staff was not seeking to influence the official business of the agencies.

G. Official Agency Business Not Addressed

The President's political staff did not use political briefings as a tool to urge political appointees to take official agency actions to benefit Republican interests. Mehlman had no recollection of discussing official acts at political briefings, rather the briefings were informational. Mehlman said:

Q Do you ever recall a discussion about the specific official acts the schedule C's could take to help a particular candidate?

A I don't recall a discussion of the official acts, no.²¹⁷

Likewise Schlapp testified:

Q Did you ever ask the political appointees to go back to their agencies and caucus with the other political appointees at their agency about the types of official acts that could be effectuated to benefit a specific candidate?

A I don't think so.²¹⁸

Jennings testified he did not ask appointees to contemplate official acts to benefit Republicans:

²¹⁵ *Id.* at 147.

²¹⁶ Jennings Interview at 55.

²¹⁷ Mehlman Interview at 102.

²¹⁸ Schlapp Deposition at 135-136.

Q [W]hen you were over at GSA and talking with political appointees [during a political briefing], did you ever have a recollection of asking them to think about the types of official acts they could do that would benefit some of these Members of Congress?

A No, I did not.²¹⁹

Jennings further testified:

Q And you never suggested the types of official acts that they could do at their agencies to benefit these folks?

A No.²²⁰

Hulen, the only agency official interviewed and deposed by the Committee who had attended a political briefing testified the purpose was not to urge appointees to take official action on behalf of Republicans:

Q Was there any discussion, that you can recollect, among the White House Political Affairs folks and USDA Agency officials about the types of official business the Agency can engage in that might benefit, even if tangentially, a specific candidate?

A No.

Q Do you ever recall a discussion inside the Agency where the official business of the Agency was conducted with a view to benefiting or not benefiting a specific candidate for election anywhere?

A No.²²¹

²¹⁹ Jennings Interview at 55.

²²⁰ *Id.* at 56.

²²¹ Hulen Interview at 46.

H. Abuse of the Grantmaking Function Under President Clinton

The decision to award a grant is handled according to the rules and regulations of the various departments and should be decided *without* consideration of elective politics. However, the decision about whether and how to publicize a particular grant or funding award can be based on numerous factors, one being the political situation of candidates in the district or state.

One example of this is the Clinton Administration's decision to publicize with a great deal of fanfare the award of federal funding to Representative Brad Sherman's district. Rather than sending a press release to the local news outlets, the Secretary of Transportation himself flew to California to make the announcement. An October 1998 Los Angeles Times story reported on the announcement:

Flanked by a handful of San Fernando Valley Democrats on the Nov. 3 ballot, U.S. Secretary of Transportation Rodney Slater on Tuesday announced a \$500,000 federally funded study to end the gridlock at the Ventura-San Diego freeway interchange.

The Clinton cabinet member said the project comes at the request of Rep. Brad Sherman (D-Sherman Oaks), the freshman incumbent who has come under attack by his Republican challenger for failing to land adequate federal transportation dollars for the district....Slater went out of his way to thank Sherman for supporting this year's mammoth federal highway funding bill. He also praised Sherman's votes on issues that have little to do with highways, saying he "stood strongly with the president" to preserve Social Security and add 100,000 teachers to the nation's classrooms.²²²

Sherman's opponent at the time accused the congressman and the Administration of "political grandstanding" since the announcement was staged six days before the election.²²³

²²² Phil Willon, *Freeway Study Gets \$500,000 Federal Grant*, L.A. TIMES, Oct. 28, 1998.

²²³ *Id.*

In a similar scenario, the Las Vegas Review-Journal reported that:

Sen. Harry Reid and transportation officials announced Friday that the state has received a \$14.6 million federal grant to design a new Hoover Dam bridge and for other highway improvements....

During a rally in front of the state Capitol, Reid said that he had been trying to secure the money for Nevada for six months and that he was notified of the grant Friday afternoon by Transportation Department Secretary Rodney Slater.

Rep. John Ensign, R-Nev., said he was happy that Nevada received the grant but questioned the timing of the announcement. Ensign faces Reid in the U.S. Senate race.

Ensign said the timing of the announcement was “an obvious political stunt by the Washington establishment to help Harry Reid.”²²⁴

Each administration has the prerogative to decide when and how to announce grant decisions. In contrast, politics cannot play a role in the agency level decision about grants.

I. White House Political Staff Had No Decision Making Role in Grant Process

Mehlman testified the political office within the White House would occasionally make suggestions about where to stage various grant announcements.

Q And when you made these suggestions about where to make announcements, did you make suggestions about where to make -- what kind of announcements were you talking about?

A Different kinds of announcements. Sometimes it involved public policy. Sometimes it involved helping to highlight that a particular candidate is -- or particular officeholder, excuse me, is good on an issue. And other times it involved other issues.

Q Did it ever involve grant announcements?

A I don't recall specifically a grant announcement effort. But I certainly think that it would have been entirely appropriate if it had. And I wouldn't be surprised if it had.²²⁵

²²⁴ Ed Vogel, *Nevada Officials Receive Federal Grant for Hoover Dam Bridge, other Projects*, LAS VEGAS REVIEW-JOURNAL, Oct. 31, 1998.

²²⁵ Mehlman Deposition at 163.

Mehlman said the agency level decision about grant awards had already been made, without the input of the President's political staff, prior to any discussions related to publicizing the award of the grant.²²⁶

Schlapp testified the political staff gave press advice after grant decisions were made. He testified:

Q Did you or anyone else from the White House have contact with agency officials in which you suggested, directed, coordinated, or discussed the awarding of grants?

A We talked generally about how you communicate policy decisions, including grant decisions.

Attorney for the Witness: I don't think the question was about communication. It was about the decision to award grants.

The Witness: I don't think that was part of our conversations.

Q So you had no involvement in the decision to award grants?

A No. I don't believe I did.²²⁷

Asked about grants, Taylor testified:

Q Okay. Some of the agencies that received these briefings are regulatory decision makers, some of them have authority to award and distribute federally funded grants around the country. Did the White House intend for political appointees at these agencies to consider the races that you were identifying when they exercised their regulatory and grant-making authorities?

A [W]e are very careful in our official capacities to never advocate the election defeat of a candidate.... **I don't ever recall asking somebody to make a grant decision based on -- based on any sort of consideration other than what was the appropriate process and procedures outlined by the agency that was making -- and I don't recall it frankly coming up that much.** . . . [M]y understanding is there was pretty strict guidelines on those [grant processes]. And I don't know that there was much I could have ever really done even if I wanted to do that.²²⁸

²²⁶ *Id.* at 166-167.

²²⁷ Schlapp Deposition at 122-123.

²²⁸ Taylor Deposition at 98 (emphasis added).

Jennings was asked about grant announcements in connection with the political briefings given to agencies. Jennings testified he told agency officials to notify the relevant Member of Congress with regard to any public announcement in his or her district. He testified:

Q We have also been told that part of the purpose of doing the briefings was to encourage people to have their agency heads make announcements in these kinds of places. **Was that part of your briefings or part of any discussions that you had with the agencies?**

A **I would like to -- no, it wasn't.** I would like to reiterate what I said earlier, the briefings were informational. I didn't have any action items associated with these briefings. So, no, I didn't have any conversations with any agency people about . . . in the context of these briefings about...making announcements...I can tell you, when a government agency makes an announcement of something in a congressional district and forgets to notify the Member of Congress, they get very upset, as I am sure you have all experienced in your offices. So...that certainly occurs. **And so one thing I remember telling agencies...whatever you do, if you are going to make an announcement, wherever it is, please make sure you notify the local Members and the Senators so that they know about it before they read it in the newspaper.**²²⁹

Jennings testified that the political staff did not have a role in the grant decision making process but agreed that from time to time the political staff advised agency officials on communication strategies for grant announcements.

Q **Do you ever recall a situation where somebody in the Office of Political Affairs recommended a grant or any other type of official business that the agency might be involved with?**

A **I don't remember any grant recommendations.**

Q So the Office of Political Affairs didn't have a seat at the decision making table for official business of the agencies. Is that fair to say?

A Yes, I think that's fair to say. Yes.

Q **On the flip side, after an official decision had been made by an agency, is it fair to say that sometimes the Office of Political Affairs might enter the loop, so to speak, to do press**

²²⁹ Jennings Interview at 36-37 (emphasis added).

on an event or to do a public event about an official agency decision?

A **Sure. I think after the official decisions were made, if an agency needed advice on where might be the best place to do something**...one generic and standard and oft-given piece of advice was, "whatever you do, if you do it in a congressional district and in a State, do not forget to notify the Members of Congress before you do it because they will get very angry." And we frequently -- we were frequently the receivers of those complaining calls, so that was a piece of advice . . . on the back end, after the action had been made, just sort of on the announcement side.²³⁰

McLaughlin testified the only OPA materials she saw related to grants were requests from Members of Congress for agency surrogates to publicize an announcement. The White House was involved from a public relations standpoint:

To the best of my recollection, there would be times when we would receive requests that were essentially asking for surrogates to attend events where a grant was going to be announced. But it was my understanding that, at the time that the event was requested, the decision to approve or grant the grant that had already been made.

So, to the best of my recollection, the only times when I would see requests for grants were when they came in to us from offices that were requesting events to publicize them.

Q And I assume actually you wouldn't see the events coming in from an office to publicize an event. You would instead see a request coming from somebody from OPA telling you that they needed you to publicize an event, is that correct?

A I wouldn't characterize it like that. **I think that, from what I remember, we would receive requests from members [of Congress], OPA would receive requests that would, for example, ask that Secretary whatever would come to that district to publicize the grant that had been approved or announced or whatever and do it just publicly.**

And so what we would then do is, if it seemed like a good idea, pass that on to the surrogate and just ask them if they wouldn't mind traveling out to the district to . . . give over the big

²³⁰ *Id.* at 65-66 (emphasis added).

cardboard check or talk to the media about why that area was getting a grant.

I think that there were some times that I would remember of agencies coming to us saying...so and so requested their presence to come out and announce the grant or letting us know that they were going to go travel to some area for a grant announcement. **But all this was in the context of already decided grants that were -- it was simply a matter of was there going to be an event occurring surrounding it.**²³¹

McLaughlin remembered Members of Congress contacted the White House to facilitate a visit from a surrogate for the purpose of announcing a grant:

Q If a set of grants was about to be announced by a particular agency, after the official decision has been made it's our understanding that the White House political office may or may not choose to do press on the event. Were you ever involved with scheduling Cabinet travel specifically that you were aware of was in conjunction with the announcement of a grant or other sort of official targeted action of an agency?

A Well, certainly we received requests for Cabinet officials to appear at events that would publicize already announced grants, and I would also occasionally hear of or read about on the Cabinet report that a secretary was going to, in fact, go to an area to publicize a grant.²³²

The Committee posed similar questions to the White House Liaisons working within the agencies. The witnesses had no recollection of White House officials seeking to influence the grant decision making process within their agency.

Former Department of Justice White House Liaison David Higbee testified:

Q Did the White House have any contact with you to suggest, direct, coordinate or discuss the rewarding of grants?

A I don't recall any kind of communications like that.²³³

Johnson said OPA was not one of the offices involved in the decision making process for grants.

²³¹ McLaughlin Deposition at 155-156 (emphasis added).

²³² *Id.* at 166.

²³³ Higbee Interview at 73.

Q What office in the White House would you coordinate with [for policy and grant announcements]?

A I would keep the Office of Cabinet Liaison informed. We would coordinate that because they had the President's schedule as well. And then, traditionally, the Office of Public Affairs at the Department of Justice would coordinate with the Office of White House Communications at the White House.

Q [Did you coordinate with] Anybody at Office of Political Affairs from the White House?

A Not that I'm aware of.

Q Does that apply to grant announcements as well? It sounded like you were speaking of policy announcements.

A Yes. It would apply to grant announcements as well, although typically the White House was not as interested in the grant announcements because they were so frequent and routine, and they just weren't that interested in them.²³⁴

Higbee successor as White House Liaison at Justice Susan Richmond Johnson testified the political affairs officials were not involved in the Justice Department's grant making function.

Q But, as you recall, was the Office of Political Affairs ever at the table in the grant-making decision process?

A Oh, no.

[T]here had to be some assessments that were done at the division level about what was important for -- particularly for the Attorney General to get involved in. Because he's only one man, and there's only so much time, and the Department is a very large Department.

The grant section, for example -- **he [the Attorney General] was very rarely involved in the grant award announcements, and even the Assistant Attorney General of OJP, whose primary function was being responsible for those grant awards, would not make announcements on every single grant award. It just wasn't feasible. It was over \$4 billion at the time per year.**

²³⁴ Johnson Deposition at 87-88.

So, yes, there had to be some sort of an assessment, not just of . . . grants but of major indictments or drug takedowns or whatever.²³⁵

Former Department of Transportation White House Liaison Lori McMahon testified grants were announced by a Cabinet official if the grant announcement destination aligned with their travel plans already in existence. She testified about a grant announcement in Pennsylvania:

Q In this email you wrote that Maria Cino will do an event with Rick Santorum on the 22nd of September in State College, Pennsylvania. You said "Topic will be a University Transportation Center (UTC) grant."

Did the White House OPA have any role in suggesting where to award grants?

A Not to my knowledge.

Q Did they [OPA] have a role in deciding where to publicize the awards of grants?

A Not to my knowledge.

Q And do you know who chose which grants were publicized with grant announcements by Maria Cino or other sub-Cabinet officials?

A No, I don't. The only time that grants ever even came into my purview at all, it wasn't something I was responsible for, is if we had a request, and -- this example here . . . somebody had something that matched.²³⁶

Former Veterans Affairs White House Liaison Matt Smith said that he was not involved in the grant process until the point of disbursement and the process varied from time to time:

Q Okay. Did you have any role in scheduling the announcements of grants?

A I had lots of roles in scheduling the Secretary's time.

Q Who was involved in determining when to schedule grant announcements or clinic opening announcements? Who was part of that process?

²³⁵ *Id.* at 51, 53 (emphasis added).

²³⁶ McMahon Interview at 40-41.

A A lot of it is determined on when a grant is ready for approval, when the Executive Secretary's Office says a grant is ready for disbursement.

Q Okay. Give me an example. How does the process work?

A I don't know how the process works, honestly, until it gets to the point where the grant is ready to be disbursed.

Q That's the process I'm talking about, not actually the awarding of the grant. I'm talking about the decision to announce it.

A If the Secretary wanted to travel somewhere to make the announcement in person or if it's done by press release.

Q Would you receive notices when grants were ready to be awarded or clinics were being opened, things like that?

A Sometimes, sometimes not.

Q So not as a matter of course?

A No.

Q You said the Executive Secretary's Office would be the one to notify you when you did receive notice?

A Uh-huh. Yes.²³⁷

No witness testified that White House officials had involvement in the grant decision making process.

²³⁷ Smith Interview at 18-20.

VIII. Conclusion

The Committee has spent considerable time and resources during the 110th Congress investigating the White House political office. From whether officials sent email on the proper equipment to whether White House staff is permitted to brief the political appointees at the agencies, this Committee has invested substantially in investigating the political aspects of the presidency.

On the eve of the 2008 presidential election, as one of its last official acts of the 110th Congress, the Committee offers a breathless, but incomplete, story of how the Democratic Majority thinks Republicans played politics.

Talking full advantage of the fact appearances can be deceiving, the report cites no investigative data to support that quantitative judgment. Based on more than 70,000 pages of documents obtained from the White House, 29 federal agencies and the Republican National Committee, the report declares that “Bush Administration officials participated in 326 events suggested by the political affairs office” from January to the mid-term election in November 2006. But the report fails to substantiate the theory that number is extraordinary or that all the events were “political.”

From the outset of this inquiry, we agreed to join the Majority in working to clarify the subtle, often elusive, boundary between official activities to gauge the impact of public policies and explicit political advocacy. Wherever it’s drawn, the line separating official and political conduct needs to be clear enough for everyone involved to see. Since the activities of a White House office explicitly charged with “political” affairs are likely to seep across any opaque Hatch Act barrier, it seems best to avoid the temptation to overly politicize official deliberations by banning any overt political advocacy at all in the White House. However, we harbor a healthy skepticism the Majority’s enthusiasm for a politically neutered White House would survive the inauguration of a Democratic president.

We conclude the Majority report does not fully or fairly represent the evidentiary record before the Committee. Many quotes attributed to witnesses in their report have been selected and edited too narrowly to provide necessary context. These Minority Views are submitted to address that failing.