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# CONGRESSIONAL OVERSIGHT OF THE BUSH ADMINISTRATION

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**PREPARED FOR**

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**EXECUTIVE SUMMARY**

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One of Congress' main responsibilities is to conduct oversight to check abuses by other branches of government. As the Supreme Court recognized nearly 50 years ago:

The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste.<sup>1</sup>

During the last five years, the Republican-controlled Congress has failed to meet this constitutional oversight responsibility. On issue after issue, the Congress has failed to conduct meaningful investigations of significant allegations of wrongdoing by the Bush Administration. As documented in a companion report, this approach stands in stark contrast to the breadth and intrusiveness of congressional investigations of the Clinton Administration.<sup>2</sup>

This report identifies 15 key oversight issues involving President Bush and his Administration that Congress has failed to investigate. They are:

- The role of the White House in manipulating intelligence about Iraq's weapons of mass destruction and ties to al Qaeda;
- The responsibility of senior Administration officials for the abuse of detainees;
- The role of White House officials in leaking the identity of a covert CIA agent;
- The role of the Vice President's office in the award of Halliburton contracts;
- The responsibility of senior White House officials in the failed response to Hurricane Katrina;
- The secret wiretapping of U.S. citizens by the National Security Agency;

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<sup>1</sup> *Watkins v. United States*, 354 U.S. 178, 187 (1957).

<sup>2</sup> Report for Rep. Henry A. Waxman, *Congressional Oversight of the Clinton Administration*, Minority Staff, Committee on Government Reform (Jan. 17, 2006).

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- The identity of the energy industry contributors who met with the Vice President's energy task force;
- The role of the White House in withholding key Medicare cost estimates from Congress;
- Evidence of conflicts of interest at multiple federal agencies and the White House;
- The increasing politicization of science-based federal agencies;
- The failure of the Department of Justice to enforce voting rights laws;
- Contract abuses at the Department of Homeland Security;
- The influence of industry lobbyists in writing EPA regulations;
- The influence of the tobacco industry lobbyists on U.S. tobacco policies; and
- The role of former Attorney General John Ashcroft in illegal campaign finance activities.

The report examines the response of the Republican-controlled Congress to these 15 oversight issues. In each case, a large "accountability gap" has emerged. Despite repeated requests by Democratic members and news reports raising allegations of serious misconduct, the Congress has failed to convene hearings, issue subpoenas, and take the other steps necessary to fulfill its constitutional oversight role.

### I. MANIPULATION OF IRAQ INTELLIGENCE

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**The Issue:** In the months leading up to the decision to wage war in Iraq, the President and his advisors made a series of misleading statements to the public regarding threats posed by Iraq. In the State of the Union address, the most thoroughly vetted statement the President makes, the President cited forged evidence regarding Iraq's nuclear capabilities, and the White House has since given conflicting and incomplete explanations of how that happened.<sup>3</sup> In total, top Administration officials made over 200 specific misleading statements regarding Iraq's nuclear, chemical, and biological capabilities, as well as Iraq's

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<sup>3</sup> See Letter from Rep. Henry A. Waxman to National Security Advisor Condoleezza Rice (July 29, 2003) (chronicling the Administration's shifting explanations for the inclusion of the claim in the State of the Union address that Iraq sought uranium in Africa).

ties to Al Qaeda.<sup>4</sup>

**The Republican Response:** Congressional leaders have refused to hold public hearings to examine the misrepresentations by top Administration officials about intelligence on Iraq. In 2003, the Chairman of the House Permanent Select Committee on Intelligence stated, “I’m not going into what the customer did with the intelligence.”<sup>5</sup> In 2004 and 2005, the House Committee on International Relations voted down on party lines resolutions that would have required the Administration to provide Congress with documents relating to key claims the Administration made about the threat posed by Iraq.<sup>6</sup> Legislation introduced by Rep. Waxman in 2003 to establish a commission that would review executive branch intelligence collection, assessments, and representations regarding the threats posed by Iraq garnered 143 cosponsors, yet congressional leaders refused to hold hearings on the measure or move it through the legislative process.<sup>7</sup> On November 3, 2005, House Republicans defeated on a party line vote a privileged resolution introduced by House Democratic Leader Nancy Pelosi demanding an investigation of Iraq intelligence and other issues by the Republican leadership and committees of jurisdiction.<sup>8</sup>

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<sup>4</sup> House Committee on Government Reform, Minority Staff, Special Investigations Division, *Iraq on the Record: The Administration’s Public Statements on Iraq*, and the accompanying database (Mar. 19, 2004) (online at [www.house.gov/reform/min](http://www.house.gov/reform/min)).

<sup>5</sup> *Republicans Dismiss Questions over Strength of Evidence on Banned Weapons in Iraq*, New York Times (June 18, 2003).

<sup>6</sup> House Committee on International Relations, *Adverse Report to Accompany H. Res. 260* (requesting the President to provide the House of Representatives with documents concerning Iraq’s weapons of mass destruction) (June 23, 2003) (H. Rept. 108-168) (noting adverse report vote of 23 Ayes (all R), 15 Nays (all D), 3 Present (2R, 1D)); House Committee on International Relations, *Adverse Report to Accompany H. Res. 375* (requesting the President and directing the Secretary of State to provide the House of Representatives with documents concerning certain communications with United Kingdom officials about Iraq policy) (Sept. 16, 2005) (H. Rept. 109-223) (noting adverse report vote of 22 Ayes (all R), 21 Nays (1R, 20D), 1 Present (R)); House Committee on International Relations, *Adverse Report to Accompany H. Res. 408* (requesting the President and directing the Secretary of Defense to provide the House of Representatives with documents concerning certain communications with United Kingdom officials about Iraq policy) (Sept. 16, 2005) (H. Rept. 109-224) (noting adverse report vote of 23 Ayes (all R), 22 Nays (1 R, 21 D), 1 Present (R)). In addition, on December 15, 2005, in a 24-19 vote, the House Committee on International Relations rejected H.Res. 549, a resolution to request the President to provide Congress with documents relating to representations about Iraq intelligence in the State of the Union address and an October 7, 2002, speech by the President. See Congress.gov, “Latest Major Action” report for H.Res. 549. This Committee vote was scheduled after a previous Committee vote on the measure of 24-24, in which 1 Republican had voted with the Democrats. See *Resolution on Bush Documents Stalls in Committee*, CongressDaily (Dec. 8, 2005).

<sup>7</sup> H.R. 2625, introduced June 26, 2003. This bill was referred to the House Permanent Select Committee on Intelligence, which took no action on the measure.

<sup>8</sup> 151 Cong. Rec. H9566-H9568 (Nov. 3, 2005) (Roll No. 562 on the motion to table the privileged resolution by Rep. Pelosi: 220 Yeas (all R) and 191 Nays (all D)).

On multiple occasions, Republican Committee chairmen in the House have denied requests from ranking Democratic members to hold hearings into the manipulation of Iraq intelligence. On July 15, 2003, Rep. Waxman asked Rep. Porter Goss, the Chairman of the House Intelligence Committee, to hold hearings in the use of the forged nuclear evidence.<sup>9</sup> On October 4, 2004, Rep. Waxman asked Rep. Tom Davis, the Chairman of the House Government Reform Committee, to hold hearings on new revelations casting doubt on the “nuclear tubes” evidence cited by multiple Administration officials.<sup>10</sup> On June 30, 2005, Rep. John Conyers and over 50 other Democratic members of Congress asked Rep. James Sensenbrenner, the Chairman of House Judiciary Committee, to hold hearings into the “Downing Street Memo,” a British document suggesting the United States and the United Kingdom may have manipulated intelligence about Iraq.<sup>11</sup> And on November 4, 2005, Rep. Jane Harman asked Rep. Peter Hoekstra, the new Chairman of the House Intelligence Committee, to examine “how intelligence products and presentations were developed, whether dissents were properly reflected, and what steps, if any, were taken by the IC [intelligence community] to correct misstatements of intelligence by senior Administration officials.”<sup>12</sup> All of these requests were ignored or rejected.

On the Senate side, after pressure from Democrats, the chairman of the Senate Select Committee on Intelligence said in February 2004 that the Committee would look at this issue.<sup>13</sup> But he subsequently stated the matter is “basically on the back burner.”<sup>14</sup> Following the disclosure of the Downing Street Memo, Senator John Kerry and other Democratic Senators again urged Senate intelligence committee hearings on Iraq intelligence, but the Chairman declined this request.<sup>15</sup>

On November 1, 2005, the Senate Democrats forced the Senate into an unusual closed-door session to draw attention to the Republican failure to investigate the manipulation of Iraq Intelligence issue.<sup>16</sup> A bipartisan group of six Senators was

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<sup>9</sup> Letter from Rep. Henry Waxman to Chairman Porter J. Goss and Ranking Minority Member Jane Harman (July 15, 2003).

<sup>10</sup> Letter from Rep. Henry Waxman to Chairman Tom Davis (Oct. 4, 2004).

<sup>11</sup> Letter from Rep. John Conyers, Jr. *et al.*, to Chairman James Sensenbrenner, *et al.* (June 30, 2005).

<sup>12</sup> Letter from Rep. Jane Harman to Chairman Pete Hoekstra (Nov. 4, 2005).

<sup>13</sup> *See Senate Panel Expands Probe of Iraq Data; Inquiry to Determine Whether Information Was Exaggerated to Make Case for War*, Washington Post (Feb. 13, 2004).

<sup>14</sup> *Iraq'd, The New Republic* (Mar. 10, 2005); *Senate Intelligence Inquiry: Senate's Iraq Intelligence Probe is All But Over, Panel Chairman Says*, Associated Press (Mar. 10, 2005).

<sup>15</sup> Letter from Sen. John Kerry *et al.* to Sens. Pat Roberts and John Rockefeller (June 22, 2005).

<sup>16</sup> *See Senate Democrats Force Closed Meeting; Republicans Bristle but Agree to Speed Probe of Prewar Intelligence*, Washington Post (Nov. 2, 2005).

appointed to discuss how to proceed.<sup>17</sup> At present, it remains unclear whether a meaningful investigation will be pursued.

## II. TREATMENT OF DETAINEES

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**The Issue:** Over the last several years, there have been multiple accounts in the press and by human rights groups of alleged U.S. mistreatment of detainees at Abu Ghraib, Guantanamo Bay, Bagram, and other detention facilities.<sup>18</sup> There have also been numerous reports that the Bush Administration has turned over terrorism suspects to countries that use torture and has held other suspects in secret without charges or an opportunity to seek a lawyer.<sup>19</sup> Many of the alleged abuses of detainees have been confirmed by internal Administration investigations.<sup>20</sup> But these investigations have failed to pursue key issues such as how far up the chain of command responsibility lies for decisions about U.S. treatment of detainees.<sup>21</sup> At least one high-level government official, the chief of

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<sup>17</sup> *Senate Democrats Force Closed Meeting; Republicans Bristle but Agree to Speed Probe of Prewar Intelligence*, Washington Post (Nov. 2, 2005).

<sup>18</sup> E.g., Human Rights Watch, *Timeline of Detainee Abuse Allegations and Responses* (2004) (on line at <http://hrw.org/english/docs/2004/05/07/usint8556.htm>).

<sup>19</sup> E.g., *Outsourcing Torture*, The New Yorker (Feb. 14, 2005); *CIA Holds Terror Suspects in Secret Prisons; Debate Is Growing Within Agency About Legality and Morality of Overseas System Set Up After 9/11*, Washington Post (Nov. 2, 2005); *Wrongful Imprisonment: Anatomy of a CIA Mistake*, Washington Post (Dec. 4, 2005).

<sup>20</sup> For example, the “Taguba Report” investigating alleged abuses at the Abu Ghraib prison found that between October and December 2003, “numerous incidents of sadistic, blatant, and wanton criminal abuses were inflicted on several detainees.” *Article 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade* at 16 (Major General Antonio Taguba was appointed by the Commander of Combined Task Force 7 on January 31, 2004, to lead this inquiry; the resulting report was released to the Senate Committee on Armed Services on May 4, 2004). The “Schmidt Report,” which examined allegations by FBI personnel that detainees at Guantanamo Bay were subject to mistreatment, found that military interrogators had used techniques including threatening a subject and his family, forcing a subject to wear a bra and placing a thong on a subject’s head, tying a subject to a leash, making a subject perform dog tricks, pouring water on a subject’s head 17 times, forcing a subject to stand naked in front of a female interrogator, and using strip searches. *Army Regulation 15-6: Final Report, Investigation into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility* (unclassified version released July 2005).

<sup>21</sup> For example, the two DOD-tasked probes with the broadest scope were the inquiries by Navy Inspector General Vice Admiral A.T. Church and the inquiry headed by former Secretary of Defense James Schlesinger. The Church investigation examined detention operations and detainee interrogation techniques, and the Schlesinger investigation also examined DOD detention operations. *Department of Defense Review of Detention Operations and Interrogation Techniques, Unclassified Executive Summary* (released Mar. 10, 2005); *Final Report of the Independent Panel to Review DOD Detention Operations* (released Aug. 2004). In his testimony to the Senate Armed Services Committee on his findings, Vice Admiral Church acknowledged that it “was not in my charter” to examine “issues of responsibility,” but rather “it was understood that the Schlesinger panel were going to make those calls.” Senate Committee on Armed Services, *Hearing on Detainee Interrogation*, Federal News Service, Inc. (Mar. 10, 2005).

staff to former Secretary of State Colin Powell, has alleged these policies originated with Vice President Cheney and Defense Secretary Rumsfeld.<sup>22</sup>

**The Republican Response:** There has been no effective congressional investigation of the mistreatment of detainees. On the House side, less than ten hours of public hearings were held last Congress after the revelations of abuse at Abu Ghraib.<sup>23</sup> None of these hearings meaningfully probed the level of responsibility of senior Administration officials for the abuses. Rep. James Sensenbrenner, the Chairman of the Judiciary Committee, rejected requests for a Committee probe from Ranking Member John Conyers.<sup>24</sup> In addition, three House committees — Armed Services, International Relations, and Judiciary — voted down resolutions seeking documents about the abuse of detainees.<sup>25</sup> Legislation introduced in 2004 by Rep. Waxman to create a select congressional committee to examine alleged detainee abuses never received a hearing or a vote.<sup>26</sup>

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However, Secretary of Defense Rumsfeld's charter to the Schlesinger panel said, "issues of personal accountability will be resolved through established military justice and administrative procedures." Memorandum to the Honorable James R. Schlesinger, Chairman, *et al.*, from Secretary of Defense Donald Rumsfeld (May 12, 2004). While the Schlesinger report found that that "military and civilian leaders at the Department of Defense share [the] burden of responsibility" for failures by commanding officers and their staffs at various levels that directly or indirectly led to detainee abuse, the report does not name any civilian official, nor make any recommendation to address such involvement. *Final Report of the Independent Panel to Review DOD Detention Operations* (released Aug. 2004).

<sup>22</sup> *Late Edition*, CNN (Nov. 20, 2005).

<sup>23</sup> The House Committee on Armed Services held three public hearings on detainee abuse in the 108<sup>th</sup> Congress: *Hearing on the Ongoing Investigation into the Abuse of Prisoners within the Central Command Area of Responsibility* (May 7, 2004) (3 hours and 19 minutes); *Hearing on Schlesinger Panel Review of DOD Detention Operations* (Sept. 9, 2004) (2 hours and 50 minutes); *Hearing on the Report by Generals Kern, Fay, and Jones* (Sept. 9, 2004) (3 hours and 35 minutes).

<sup>24</sup> Letter from Rep. John Conyers *et al.*, to Chairman James Sensenbrenner (June 17, 2004).

<sup>25</sup> House Committee on Armed Services, *Adverse Report to Accompany H.Res. 640* (which directed the Secretary of Defense to transmit to the House of Representatives information relating to the internal DOD investigation of Abu Ghraib abuses) (June 16, 2004) (H. Rept. 108-547) (noting adverse report voice vote); House Committee on Armed Services, *Adverse Report to Accompany H. Res. 689* (which requested the President and directed other federal officials to transmit to the House of Representatives documents relating to the treatment of prisoners or detainees in Iraq, Afghanistan, and Guantanamo Bay) (July 22, 2004) (H. Rept. 108-632) (noting adverse report vote of 31 Ayes (all R), 27 Nays (all D), 1 Present (1R)); House Committee on International Relations, *Adverse Report to Accompany H. Res. 699* (which directed the Secretary of State to transmit to the House of Representatives documents relating to the treatment of detainees and prisoners in Iraq, Afghanistan, and Guantanamo Bay) (July 22, 2004) (H. Rept. 108-631) (noting adverse report vote of 23 Ayes (all R), 19 Nays (all D)); House Committee on the Judiciary, *Adverse Report to Accompany H. Res. 700* (which required the Attorney General to transmit to the House of Representatives documents relating to the treatment of prisoners and detainees in Iraq, Afghanistan, and Guantanamo Bay) (Sept. 7, 2004) (H. Rept. 108-658) (noting adverse report vote of 15 Ayes (all R), 12 Nays (all D)).

<sup>26</sup> This measure, H.Res. 690 (108<sup>th</sup> Congress), was introduced on June 23, 2004, gathered 112 cosponsors, and was referred to the House Committee on Rules.



This Congress, House Republicans have continued to fail to pursue an investigation of detainee abuses. In February 2005, Chairman Tom Davis of the House Government Reform Committee rejected Rep. Waxman's request for a Committee investigation of the involvement of senior administration officials in authorizing or condoning detainee abuse.<sup>27</sup> The only public hearing held in the House Committee on Armed Services was a June 29, 2005, session on Guantanamo Bay operations, where Chairman Duncan Hunter lauded the food service at Guantanamo Bay and said "if there was one word to describe" operations at Guantanamo, it is "professionalism, honor-bound professionalism."<sup>28</sup> Republican leaders also refused to grant a hearing or vote on legislation Rep. Waxman introduced to establish an independent commission to review detainee issues.<sup>29</sup>

In the Senate, the Committee on Armed Services held several public hearings immediately after the Abu Ghraib abuses were disclosed,<sup>30</sup> and since has held periodic public sessions on detainee issues that primarily focused on reviewing various internal military investigations into detainee operations and allegations.<sup>31</sup> However, no committee in the Senate has conducted a comprehensive public probe of the alleged abuses at Abu Ghraib, Guantanamo Bay, Bagram, and other facilities or assessed individual accountability up the chain of command and among civilian personnel. On November 8, 2005, the Senate rejected an amendment by Senator Carl Levin that would have established a commission to examine detainee policies and practices.<sup>32</sup>

### III. LEAK OF A COVERT CIA AGENT'S STATUS

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**The Issue:** In a column that appeared in major national newspapers on July 14, 2003, columnist Robert Novak publicly identified Valerie Plame Wilson, wife of former Ambassador Joseph Wilson, as a covert CIA agent.<sup>33</sup> The column cited

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<sup>27</sup> Letter from Rep. Henry Waxman to Chairman Tom Davis (Feb. 8, 2005).

<sup>28</sup> *Hearing on Detainee Operations at Guantanamo Bay*, Federal News Service (June 29, 2005).

<sup>29</sup> Rep. Waxman introduced H.R. 3003, legislation to create an independent commission to investigate detainee abuses, on June 21, 2005. The measure, which has 173 cosponsors, has been referred to the House Committee on Armed Services, which has held no hearings on the bill.

<sup>30</sup> Senate Committee on Armed Services, *Hearings to Receive Testimony on Allegations of Mistreatment of Iraqi Prisoners* (May 7, May 11, and May 19, 2004).

<sup>31</sup> *E.g.* Senate Committee on Armed Services, *Hearing to Receive Testimony on the Department of the Army Inspector General Report on Detention Operation Doctrine and Training* (July 22, 2004); Senate Committee on Armed Services, *Hearing to Receive Testimony on the Review of Department of Defense Detention Operations and Detainee Interrogation Techniques* (Mar. 10, 2005).

<sup>32</sup> Senator Levin offered the amendment to S. 1042, the National Defense Authorization Act, and it was rejected by a vote of 43-55. 151 Cong. Rec. S12472-4, S12491-2 (Roll No. 309).

<sup>33</sup> Robert D. Novak, *The Mission to Niger*, Chicago Sun-Times (July 14, 2003).

“two senior administration officials” as the source. Since then, it has been revealed that both Karl Rove, the President’s top political advisor, and I. Lewis “Scooter” Libby, the Vice President’s Chief of Staff, informed journalists of Ms. Wilson’s identity.<sup>34</sup> Special Counsel Patrick Fitzgerald, who was appointed to conduct a criminal investigation, indicted Mr. Libby for obstructing his investigation and committing perjury.<sup>35</sup> Mr. Novak has stated that he believes President Bush knows who was responsible for the leak.<sup>36</sup>

**The Republican Response:** No hearings have been held in either the House or the Senate on the leak of Ms. Wilson’s identity. Chairman Tom Davis of the House Committee on Government Reform has turned down five separate requests by Rep. Waxman for an investigation.<sup>37</sup> Chairman James Sensenbrenner of the House Committee on the Judiciary has refused requests by Ranking Member John Conyers for Committee hearings on this subject.<sup>38</sup> In both 2004 and 2005, the House Committees on Intelligence, Armed Services, International Relations, and Judiciary rejected resolutions to require the Administration to provide documents and other information relating to the leak, in each case by votes that were virtually all party line.<sup>39</sup> Senate Republican leaders also have refused to hold hearings to probe the circumstances and implications of the leak.

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<sup>34</sup> *Rove Reportedly Held Phone Talk on CIA Officer*, New York Times (July 15, 2005); *Rove Confirmed Plame Indirectly, Lawyer Says*, Washington Post (July 15, 2005); Matt Cooper, *What I Told the Grand Jury*, Time (July 25, 2005); *United States of America v. I. Lewis Libby*, Indictment (D.D.C. Oct. 28, 2005).

<sup>35</sup> *United States of America v. I. Lewis Libby*, Indictment (D.D.C. Oct. 28, 2005).

<sup>36</sup> *Novak Confident Bush Knows Source of Leak*, Associated Press (Dec. 16, 2005).

<sup>37</sup> See Letter from Chairman Tom Davis to Rep. Henry A. Waxman (Nov. 1, 2005); Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Nov. 16, 2005); Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Oct. 28, 2005); Letter from Rep. Henry A. Waxman to Chairman Tom Davis (July 11, 2005); Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Dec. 11, 2003); Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Sept. 29, 2003). See also Letter from Rep. Henry Waxman to Chairman Tom Davis (Dec. 6, 2005) (noting the apparent inconsistency between refusing to investigate the leak of the CIA agent’s identity and opening a new Committee investigation into an alleged leak by a former White House employee of information that reportedly did “not appear to contain any important U.S. secrets”).

<sup>38</sup> In October 2003 and July 2005, Rep. Conyers and other Democrats on the Judiciary Committee wrote the Chairman to request a hearing on the CIA agent identity leak. Letter from Rep. John Conyers *et al.* to Chairman James Sensenbrenner (Oct. 30, 2003); Letter from Rep. John Conyers *et al.* to Chairman James Sensenbrenner (July 14, 2005). Chairman Sensenbrenner to date has refused to hold such a hearing.

<sup>39</sup> House Committee on the Judiciary, *Adverse Report to Accompany H. Res. 420* (Sept. 22, 2005) (H. Rept. 109-230) (noting adverse report vote was 15 Ayes (all R), 11 Nays (all D)); House Committee on Armed Services, *Adverse Report to Accompany H. Res. 417* (Sept. 22, 2005) (H. Rept. 109-234) (noting voice vote on the adverse report); House Select Committee on Intelligence, *Adverse Report to Accompany H. Res. 418* (Sept. 21, 2005) (H. Rept. 109-228) (noting adverse report vote was 11 Ayes (all R), 9 Nays (all D)); House Committee on International Relations, *Adverse Report to Accompany H. Res. 419* (Sept. 16, 2005) (H. Rept. 109-225) (noting adverse report vote was 26 Ayes (all R), 21 Nays (all D)); House Committee on Armed Services, *Adverse*

#### IV. AWARD OF HALLIBURTON CONTRACTS

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**The Issue:** On November 11, 2002, the Defense Department awarded Halliburton a sole-source task order to develop a contingency plan to restore and operate Iraq's oil infrastructure, and on March 8, 2003, the Defense Department awarded Halliburton a no-bid contract worth up to \$7 billion to implement the contingency plan. After the public disclosure of these contracts, Vice President Dick Cheney asserted on national television that he had "absolutely no ... knowledge of in any way, shape or form of contracts led by the Corps of Engineers or anybody else in the federal government."<sup>40</sup> Other Administration officials also denied that there were contacts with the Vice President's office and insisted that career civil servants made the decisions to award the contracts to Halliburton.<sup>41</sup> Yet contrary to these assertions, the decision to award the contracts to Halliburton was made by a senior political appointee at the Defense Department, and the Vice President's chief of staff and other senior White House and Administration officials were briefed in advance.<sup>42</sup> In addition, a senior Army Corps of Engineers official wrote a March 5, 2003, e-mail noting that action on the sole-source contract was "coordinated with the Vice President's office."<sup>43</sup>

**The Republican Response:** Republicans in Congress have refused to investigate the extent of the Vice President's involvement in the award of the contracts to Halliburton. On July 22, 2004, the Republicans on the House Government Reform Committee rejected on a straight party-line vote a motion to subpoena the communications between the Defense Department and the Vice President's

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*Report to Accompany H. Res. 499* (Feb. 27, 2004) (H. Rept. 108-413, Part IV) (noting adverse report vote was 30 Ayes (29R, 1D), 23 Nays (all D)); House Committee on International Relations, *Adverse Report to Accompany H. Res. 499* (Feb. 27, 2004) (H. Rept. 108-413, Part II) (noting adverse report vote was 24 Ayes (all R), 22 Nays (all D)); House Committee on the Judiciary, *Adverse Report to Accompany H. Res. 499* (Feb. 3, 2004) (H. Rept. 108-413, Part III) (noting adverse report vote was 17 Ayes (all R), 8 Nays (all D)); House Select Committee on Intelligence, *Adverse Report to Accompany H. Res. 499* (Feb. 3, 2004) (H. Rept. 108-413, Part I) (noting adverse report vote was 10 Ayes (9 R, 1 D), 3 Nays (all D), 1 Present (D)).

<sup>40</sup> *Meet the Press*, NBC News (Sept. 14, 2003).

<sup>41</sup> See House Committee on Government Reform, *Hearings on the Complex Task of Coordinating Contracts Amid Chaos: The Challenges of Rebuilding a Broken Iraq* (Mar. 11, 2004) (at which seven Defense Department and Coalition Provisional Authority officials testified that there had been no contacts with the Vice President's office before the Iraqi oil contract and other reconstruction contracts were awarded); Press Conference with White House Press Secretary Ari Fleischer (Apr. 11, 2003) (in which Mr. Fleischer stated "the White House does not get involved or dictate to agencies on how to award contracts"); Statement of Robert Anderson, Chief Counsel, U.S. Army Corps of Engineers, *60 Minutes*, CBS News (Apr. 27, 2003).

<sup>42</sup> For a detailed description of statements by Administration officials regarding contact with the Vice President's office on Halliburton contracts, see Letter from Rep. Henry A. Waxman to Vice President Richard B. Cheney (June 13, 2004).

<sup>43</sup> *The Paper Trail: Did Cheney Okay a Deal?*, Time (May 30, 2004).

office.<sup>44</sup> The Senate has held no hearings on the Vice President’s involvement in federal contracts with Halliburton. In the Senate, the Chairwoman of the Senate Committee on Homeland Security and Governmental Affairs refused five requests by Committee Democrats for hearings on Iraq reconstruction contracting.<sup>45</sup>

## V. WHITE HOUSE RESPONSIBILITY FOR THE KATRINA RESPONSE

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**The Issue:** There is substantial evidence that senior White House officials, including White House Chief of Staff Andrew Card, played a major role in the failed federal response to Hurricane Katrina. Michael Brown, the former FEMA director, testified, “the White House was fully engaged” and “working behind the scenes ... to make things happen.”<sup>46</sup> Mr. Brown testified that he “exchanged emails and phone calls with [Deputy Chief of Staff] Joe Hagin, Andy Card, and the president;” that he may have spoken with or emailed these White House officials as many as 30 times during the key days before and after the hurricane struck; and that he informed Mr. Card that “we needed help.”<sup>47</sup> In an interview with the *New York Times*, Mr. Brown further stated that he “ask[ed] the White House explicitly to take over the response,” and that he made a “blur of calls” warning Mr. Card that “I can’t get a unified command and control established” and that “things were going to hell in a handbasket.”<sup>48</sup> These urgent communications — and how Mr. Card, Mr. Hagin, and other White House officials responded — are key to understanding what went wrong in the immediate federal response.

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<sup>44</sup> House Committee on Government Reform, *Hearings on Unprecedented Challenges: The Complex Task of Coordinating Contracts Amid the Chaos and the Rebuilding of Iraq*, 108<sup>th</sup> Cong., 2d Sess., 544-46, 584 (Mar. 11, June 15, and July 22, 2004) (Ser. No. 108-213) (roll call tally was 19 ayes and 23 nays on a straight party-line vote).

<sup>45</sup> See Statement of Senator Frank Lautenberg, Senate Democratic Policy Committee, *An Oversight Hearing on Waste, Fraud, and Abuse in U.S. Government Contracting in Iraq* (June 27, 2005). Denied the avenue of bipartisan congressional oversight through standing Senate Committees, Senate Democrats held six hearings without Republican participation to investigate alleged contracting abuses. Senate Democratic Policy Committee, *Hearing on Contracting Abuses in Iraq* (Nov. 3, 2003); Senate Democratic Policy Committee, *Oversight Hearing Iraq Contracting Practices* (Feb. 13, 2004); Senate Democratic Policy Committee, *An Oversight Hearing on Contracting Abuses in Iraq* (Sept. 10, 2004); Senate Democratic Policy Committee, *An Oversight Hearing on Waste, Fraud, and Abuse in U.S. Government Contracting in Iraq* (Feb. 14, 2005); Senate Democratic Policy Committee, *An Oversight Hearing on Waste, Fraud, and Abuse in U.S. Government Contracting in Iraq* (June 27, 2005); Senate Democratic Policy Committee, *An Oversight Hearing on Whether the Army Corps of Engineers Retaliated against Whistleblowers Who Objected to Iraq Contracting Abuses* (Sept. 16, 2005).

<sup>46</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Testimony of Michael D. Brown, *Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109<sup>th</sup> Cong. (Sept. 27, 2005).

<sup>47</sup> *Id.*

<sup>48</sup> *Ex-FEMA Chief Tells of Frustration and Chaos*, *New York Times* (Sept. 15, 2005).

**The Republican Response:** During the hearings of the House Select Committee on Hurricane Katrina, Rep. Charlie Melancon repeatedly asked Rep. Tom Davis, the Committee Chairman, to obtain the emails between Mr. Brown and top White House officials, including Mr. Card.<sup>49</sup> After the White House refused to provide these emails, Rep. Melancon brought a motion for a subpoena before the Select Committee, supported by a 23-page memorandum explaining the need for the requested documents and the precedent for a subpoena.<sup>50</sup> The motion was rejected. Instead, at the last minute Republicans offered and adopted a substitute motion, handwritten on a half-sheet of notepaper, to accept a two-hour briefing from a mid-level White House official in lieu of the requested documents.<sup>51</sup> As a result, the Select Committee failed to obtain the most relevant evidence of the White House role in the failed federal response to Hurricane Katrina.

## VI. SECRET NSA WIRETAPS

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**The Issue:** Shortly after the September 11 attacks, President Bush signed a presidential order authorizing the National Security Agency to eavesdrop on communications by American citizens and others in the United States without obtaining a warrant.<sup>52</sup> After the disclosure of the secret spying program in the *New York Times* in December 2005, legal experts asserted that the program violates the 1978 law known as the Foreign Intelligence Surveillance Act (FISA), which established procedures for obtaining court approval of government wiretapping.<sup>53</sup> On December 19, 2005, one of the judges on the FISA court resigned, reportedly out of concern that the President's spying program was "legally questionable" and "may have tainted the FISA court's work."<sup>54</sup>

**The Republican Response:** The Administration provided secret briefings to a small group of congressional leaders, including the chairmen of the House and

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<sup>49</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Statement of Rep. Charles Melancon, *Hearing on Hurricane Katrina: The Federal Government's Use of Contractors to Prepare and Respond*, 109<sup>th</sup> Cong. (Nov. 2, 2005); House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Statement of Rep. Charles Melancon, *Hearing on Hurricane Katrina: Preparedness and Response by the State of Alabama*, 109<sup>th</sup> Cong. (Nov. 9, 2005).

<sup>50</sup> Memorandum from Rep. Charlie Melancon to Members of the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Re: Motion to Subpoena White House and Other Agencies (Dec. 13, 2005).

<sup>51</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearing on Hurricane Katrina: Preparedness and Response by the State of Louisiana*, 109<sup>th</sup> Cong. (Dec. 14, 2005).

<sup>52</sup> *Bush Lets U.S. Spy on Callers Without Courts*, New York Times (Dec. 16, 2005).

<sup>53</sup> *White House Elaborates on Authority for Eavesdropping*, Washington Post (Dec. 20, 2005); see also 50 U.S.C. § 1801 *et seq.*

<sup>54</sup> *Spy Court Judge Quits in Protest*, Washington Post (Dec. 21, 2005).

Senate committees on intelligence, on at least some aspects of the new spying program shortly after President Bush initiated it.<sup>55</sup> One of the individuals briefed, Senator Jay Rockefeller, the Ranking Democrat on the Senate Select Committee on Intelligence, was so concerned that he hand-wrote a letter to the Vice President on July 17, 2003, stating, “the activities we discussed raise profound oversight issues.”<sup>56</sup> Similarly, following the briefing she received about the spying program, House Democratic Leader Nancy Pelosi wrote the Administration to express her concern.<sup>57</sup> However, three years after the program’s inception, Republican leaders of Congress have yet to conduct a thorough review of its legality and necessity. It was only after public uproar following the disclosure of the secret wiretaps in the *New York Times* that Republicans promised hearings to examine these issues.<sup>58</sup> To date, it is not clear that a meaningful probe will ensue.

## VII. VICE PRESIDENT’S ENERGY TASK FORCE

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**The Issue:** In the early months of 2001, the Vice President led a task force that worked behind closed doors to develop the Administration’s comprehensive energy policy. Press accounts identified a number of energy industry campaign contributors that met with the task force and reported that major contributors had private sessions with the Vice President.<sup>59</sup> The White House energy plan that resulted from the task force’s work contained dozens of specific recommendations from top energy industry campaign contributors such as Enron.<sup>60</sup>

**The Republican Response:** Republican-controlled congressional committees have failed to conduct an investigation of the evidence that energy companies that contributed to the President’s campaign wielded inappropriate influence in the development of the Administration’s energy policy. In the House, the Energy and Commerce Committee voted down a resolution to require the Administration to provide information relating to the Vice President’s energy task force, refusing even to permit debate on the resolution.<sup>61</sup> In the Senate, during the period when

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<sup>55</sup> *Bush Lets U.S. Spy on Callers Without Courts*, New York Times (Dec. 16, 2005); *Senator Sounded Alarm in '03; Rockefeller Wrote Cheney to Voice Concerns on Spying*, Washington Post (Dec. 20, 2005); *Spy Briefings Failed to Meet Legal Test, Lawmakers Say*, New York Times (Dec. 21, 2005).

<sup>56</sup> *Rockefeller Wrote Cheney to Voice Concerns on Spying*, Washington Post (Dec. 20, 2005).

<sup>57</sup> House Democratic Leader Nancy Pelosi, Press Release, *Pelosi Requests Declassification of Her Letter on NSA Activities* (Dec. 20, 2005) (online at [www.democraticleader.house.gov](http://www.democraticleader.house.gov)).

<sup>58</sup> *See Rice Defends Domestic Eavesdropping*, New York Times (Dec. 19, 2005).

<sup>59</sup> *Top G.O.P. Donors In Energy Industry Met Cheney Panel*, New York Times (Mar. 1, 2002); *Cheney Task Force Seeks Input from Interest Groups*, Associated Press (May 14, 2001).

<sup>60</sup> *See* Minority Staff, Special Investigations Division, House Government Reform Committee, *White House Energy Plan Recommendations Benefit Campaign Contributors* (Mar. 22, 2002).

<sup>61</sup> *House Panel Rejects Democratic Push for Info on Cheney’s Energy Task Force*, Environment and Energy Daily (Sept. 16, 2004); House Committee on Energy and Commerce, *Adverse Report*

Democrats controlled the Senate, Senator Lieberman, then-Chairman of the Senate Committee on Governmental Affairs, initiated a probe into contacts between the energy task force and Enron Corporation, requesting and ultimately subpoenaing relevant documents.<sup>62</sup> After the Republicans took over the Senate in 2003, there was no further investigation of contacts between the Vice President's task force and energy companies.

## **VIII. WITHHOLDING OF MEDICARE COST ESTIMATES**

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**The Issue:** In November 2003, Congress passed Medicare prescription drug legislation after contentious debate by a slim margin. One of the main issues in the debate was the cost of the bill. A few days before Congress voted on the measure, President Bush promised that the cost of the bill would be \$400 billion.<sup>63</sup> Other Administration officials including Tom Scully, then-Administrator of the Centers for Medicare and Medicaid Services, reiterated this figure without qualification.<sup>64</sup> After enactment of the bill, however, news accounts revealed that HHS's chief actuary, Richard Foster, had prepared cost estimates showing that the bill would cost \$500 to \$600 billion and that Mr. Scully had threatened Mr. Foster with the loss of his job if he shared this information with congressional Democrats.<sup>65</sup> The White House was aware of the higher estimates, as Mr. Foster had passed them along to presidential aide Doug Badger.<sup>66</sup>

**The Republican Response:** Despite the significant ramifications for the federal budget and the gravity of the allegations that the Administration withheld key information from Congress, Republican congressional committee chairs have refused to investigate the allegations. In the House, the Committees on Energy and Commerce and Ways and Means rejected a resolution that would have required the Administration to turn over information relating to the Medicare cost

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*to Accompany H. Res. 745 (Sept. 23, 2004) (H. Rept. 108-697) (noting adverse report vote of 30 Ayes (all R), 22 Nays (all D)).*

<sup>62</sup> Senate Committee on Governmental Affairs, Press Statement, *Lieberman Seeks Enron Contacts from White House, Energy Task Force* (Mar. 27, 2001); Senate Committee on Governmental Affairs, Press Statement, *White House Subpoenas Issued for Enron Information; Committee Also Reports Out Homeland Security Bill* (May 22, 2002).

<sup>63</sup> President Bush, *Media Availability after Meeting with Medicare Conferees* (Nov. 17, 2003).

<sup>64</sup> See, e.g., Tom Scully, *The Medicare Bill: A Good Thing?*, New York Times (Nov. 20, 2003) (letter to the editor).

<sup>65</sup> *Official Says He Was Told to Withhold Medicare Data*, Washington Post (Mar. 13, 2004); *Medicare Actuary Reveals E-Mail Warning; June 20 Directive Says 'Work up the Numbers' and Points to 'Consequences for Insubordination'*, Wall Street Journal (Mar. 18, 2004).

<sup>66</sup> Testimony of Richard Foster, House Committee on Ways and Means, *Hearing on Board of Trustees 2004 Annual Reports*, Federal News Service Transcripts (Mar. 24, 2004); see also *Democrats Demand Inquiry into Charge by Medicare Officer*, New York Times (Mar. 14, 2004).

estimates.<sup>67</sup> On April 1, 2004, after Democrats on the Ways and Means exercised their rights under the House rules to demand a day of hearings on the issue, Republicans on the Committee voted down motions to subpoena two key witnesses, Mr. Scully and Mr. Badger, who refused to appear voluntarily.<sup>68</sup> In the Senate, Democrats wrote letters in January and March 2004 requesting public hearings in the Senate Committee on Finance on the withholding of Medicare cost estimates, but the Committee did not proceed with such hearings.<sup>69</sup>

## **IX. CONFLICTS OF INTEREST AT MULTIPLE FEDERAL AGENCIES AND THE WHITE HOUSE**

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**The Issue:** Over the past several years, numerous media accounts have reported allegations that a number of top Bush Administration officials engaged in unethical conduct. For example:

- **Interior Conflicts of Interest.** Former Deputy Interior Secretary James Steven Griles reportedly had meetings on policy matters with clients of his former lobbying firm.<sup>70</sup>
- **HHS Conflicts of Interest.** Former chief Medicare official Tom Scully allegedly negotiated future employment representing entities with a significant stake in the Medicare drug legislation while drafting the measure.<sup>71</sup>
- **White House Conflicts of Interest.** The President's top advisor, Karl Rove, reportedly had meetings and phone calls with representatives of companies in which he held stock.<sup>72</sup>

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<sup>67</sup> House Committee on Energy and Commerce, *Adverse Report to Accompany H. Res. 776* (Oct. 8, 2004) (H. Rept. 108-754) (noting adverse report vote of 26 Ayes (all R), 21 Nays (all D)); House Committee on Ways and Means, *Adverse Report to Accompany H. Res. 776* (Oct. 7, 2004) (H. Rept. 108-754) (noting adverse report vote of 19 Ayes (all R), 12 Nays (all D)).

<sup>68</sup> House Committee on Ways and Means Democrats, News Release, *Ways and Means Republicans Allow Scully and the White House to Avoid Answering Questions on Medicare Estimate Coverup* (Apr. 1, 2004).

<sup>69</sup> E.g., Letter from Senators Tom Daschle, Bob Graham, and Kent Conrad to Senate Committee on Finance Chairman Charles Grassley and Ranking Minority Member Max Baucus (Jan. 30, 2004); Letter from Senators Tom Daschle, Bob Graham, John Kerry, Jay Rockefeller *et al.* to Senate Committee on Finance Chairman Charles Grassley and Ranking Minority Member Max Baucus (Mar. 26, 2004).

<sup>70</sup> *Report Critical of Interior Official; Inspector General Calls Deputy Secretary's Dealings With Companies Troubling*, Washington Post (Mar. 17, 2004); *Ethics Probe Opened on Interior Dept. Lawyer; Environmental Groups Allege Conflicts of Interest*, Washington Post (Aug. 15, 2003).

<sup>71</sup> *See Medicare Chief Joins Firm with Health Clients*, New York Times (Dec. 19, 2003).

<sup>72</sup> *See Intel Pitched Proposed Merger to Rove*, Associated Press (June 14, 2001).



- **DOD Conflicts of Interest.** Richard Perle, the former chairman of the Defense Policy Board, an influential Pentagon board that advises the Secretary of Defense, reportedly was promised a \$600,000 fee by Global Crossing, in addition to his \$125,000 retainer, if the Defense Department approved the sale of the company to Chinese investors.<sup>73</sup>

**The Republican Response:** There have been no public hearings in the House or Senate to investigate these allegations of conflicts of interest at the White House and executive branch agencies. Rep. Waxman wrote Tom Davis, Chairman of the Government Reform Committee, in February 2005 to request an investigation,<sup>74</sup> but this request was rejected.

## **X. POLITICIZATION OF FEDERAL SCIENCE-BASED AGENCIES**

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**The Issue:** Over the last five years, Administration officials have repeatedly distorted and suppressed scientific evidence for political purposes. Administration officials have manipulated scientific advisory committees by appointing members based on political considerations as opposed to expertise, interfered with the conduct of federally-funded research in order to bias the outcome, and distorted scientific findings when communicating them to Congress and the public.<sup>75</sup> A recent example of the distortion of science is FDA's rejection of "Plan B," an emergency contraceptive, for over-the-counter distribution. Despite the recommendations of the career scientists at FDA and FDA's expert advisory panel, FDA rejected the application. This decision led to the resignations of FDA's Assistant Commissioner for Women's Health and a respected expert advisory committee member.<sup>76</sup>

**The Republican Response:** In February 2005, Rep. Waxman wrote Rep. Tom Davis, Chairman of the Government Reform Committee, to request hearings on the politicization of science at federal agencies.<sup>77</sup> This request was rejected. In November 2005, Rep. Waxman asked that the Committee specifically investigate

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<sup>73</sup> *After Disclosures, Pentagon Advisor Quits a Post*, New York Times (Mar. 28, 2003).

<sup>74</sup> Letter from Rep. Henry Waxman to Chairman Tom Davis (Feb. 8, 2005).

<sup>75</sup> For a detailed review of the Administration's subversion of science to politics, see House Committee on Government Reform Minority Staff, *Politics and Science in the Bush Administration* (August 2003) (on line at [www.democrats.reform.house.gov](http://www.democrats.reform.house.gov)). The web site of the House Government Reform Committee minority updates this report in its "Politics and Science" subsection of the "Investigations" section on its website ([www.democrats.reform.house.gov](http://www.democrats.reform.house.gov)).

<sup>76</sup> See House Committee on Government Reform, Minority Staff, *Fact Sheet: The Politicization of Emergency Contraception* (Oct. 2005) (online at <http://democrats.reform.house.gov/story.asp?ID=943>).

<sup>77</sup> Letter from Rep. Henry Waxman to Chairman Tom Davis (Feb. 8, 2005).

FDA's Plan B decision.<sup>78</sup> To date, Chairman Davis has failed to request any documents or schedule any hearings, although he says the Plan B request is under consideration. Reps. Waxman and Bart Gordon introduced in legislation in February 2005 to protect federal scientists from political interference.<sup>79</sup> No committee hearings or markups have been scheduled on this legislation.

## **XI. JUSTICE DEPARTMENT ENFORCEMENT OF VOTING RIGHTS LAWS**

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**The Issue:** At the Justice Department, the recommendations of career officials on important voting rights cases appear to have been rejected by senior officials. In one case, six career attorneys and two government experts unanimously recommended that the Department reject the partisan redistricting plan developed for Texas by Rep. Tom DeLay, writing that the redistricting plan violated the 1965 Voting Rights Act because Texas had not “met its burden in showing that [the plan] does not have a discriminatory effect.”<sup>80</sup> In a second case, another team of career lawyers and analysts recommended rejection of a Georgia law imposing new voter identification requirements because the new requirements were “likely to discriminate against black voters.”<sup>81</sup> In both cases, senior officials at the Justice Department overruled the staff recommendations and approved the controversial state measures.<sup>82</sup>

**The Republican Response:** There have been no congressional hearings to investigate the reports that Justice Department appointees have overruled the recommendations of career attorneys in voting rights cases for political reasons. In the House, Reps. Waxman and William (Lacy) Clay Jr. twice wrote Rep. Tom Davis, the Chairman of the Government Reform Committee, to request hearings.<sup>83</sup> To date the Chairman has not responded to these requests. In November 2005, Rep. James Sensenbrenner, chairman of the House Judiciary Committee declined the request of Rep. John Conyers, Ranking Member of the Committee, to hold expedited hearings on the subjects of the DOJ decisions on

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<sup>78</sup> Letter from Rep. Henry Waxman to Chairman Tom Davis (Nov. 15, 2005).

<sup>79</sup> H.R. 839 (109<sup>th</sup> Cong.)

<sup>80</sup> *Justice Staff Saw Texas Districting as Illegal; Voting Rights Finding on Map Pushed by DeLay Was Overruled*, Washington Post (Dec. 2, 2005).

<sup>81</sup> *Criticism of Voting Law Was Overruled; Justice Dept. Backed Georgia Measure Despite Fears of Discrimination*, Washington Post (Nov. 17, 2005).

<sup>82</sup> *Justice Staff Saw Texas Districting as Illegal; Voting Rights Finding on Map Pushed by DeLay Was Overruled*, Washington Post (Dec. 2, 2005); *Civil Rights Focus Shift Roils Staff At Justice; Veterans Exit Division as Traditional Cases Decline*, Washington Post (Nov. 13, 2005).

<sup>83</sup> Letter from Reps. Henry Waxman and William Lacy Clay *et al.* to Chairman Tom Davis (Nov. 18, 2005); Letter from Reps. Henry Waxman and William Lacy Clay to Chairman Tom Davis (Dec. 2, 2005).

Texas redistricting and the Georgia photo identification law.<sup>84</sup> In the Senate, the Chairman of the Judiciary Committee indicated that he was considering holding hearings on the Texas redistricting issue.<sup>85</sup> But to date no hearings have occurred.

## **XII. CONTRACT ABUSES AT THE DEPARTMENT OF HOMELAND SECURITY**

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**The Issue:** A series of reports have disclosed significant evidence of contract waste, fraud, and abuse at the Department of Homeland Security. These include reports that millions or in some cases billions of dollars may have been wasted on contracts to hire airport screeners,<sup>86</sup> to detect explosives in airline baggage,<sup>87</sup> to install nuclear detection equipment at ports,<sup>88</sup> and to install cameras and sensors along the nation's borders.<sup>89</sup>

**The Republican Response:** Rep. Waxman made four separate requests in 2005 for hearings by the Government Reform Committee to probe alleged Homeland Security contract abuses.<sup>90</sup> All of the requests were ignored. The House Committee on Homeland Security has examined how DHS handled installation of border cameras and sensors.<sup>91</sup> However, no committee in either the House or the Senate has conducted a comprehensive review of alleged procurement problems at the Department of Homeland Security, assessed responsibility for these abuses, and made recommendations regarding how to prevent future abuses.

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<sup>84</sup> Information provided in a phone call between minority staff of the House Committee on Government Reform and minority staff of the House Committee on the Judiciary (Jan. 10, 2006).

<sup>85</sup> *Justice Dept. Alters Policy on Review of Voting Rights*, Washington Post (Dec. 11, 2005).

<sup>86</sup> *The High Cost of the Rush to Security*, Washington Post (June 30, 2005).

<sup>87</sup> *Contracting Rush for Security Led to Waste, Abuse*, Washington Post (May 22, 2005); *U.S. to Spend Billions More to Alter Security Systems*, New York Times (May 8, 2005).

<sup>88</sup> *Contracting Rush for Security Led to Waste, Abuse*, Washington Post (May 22, 2005); *U.S. to Spend Billions More to Alter Security Systems*, New York Times (May 8, 2005).

<sup>89</sup> *Probe Faults System for Monitoring U.S. Borders*, Washington Post (Apr. 11, 2005).

<sup>90</sup> See Letter from Rep. Waxman to Chairman Tom Davis (Oct. 25, 2005); Letter from Rep. Waxman to Chairman Tom Davis (July 28, 2005); Letter from Rep. Waxman to Chairman Tom Davis (June 30, 2005); Letter from Rep. Waxman to Chairman Tom Davis (Feb. 8, 2005).

<sup>91</sup> House Committee on Homeland Security, Subcommittee on Management, Integration, and Oversight, *Hearing on Mismanagement of the Border Surveillance System and Lessons for the New Secure Border Initiative* (Dec. 16, 2005); House Committee on Homeland Security, Subcommittee on Management, Integration, and Oversight, *Hearing on Mismanagement of the Border Surveillance System and Lessons for the New America's Shield Initiative* (June 16, 2005).

### XIII. INFLUENCE OF INDUSTRY LOBBYISTS AT EPA

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**The Issue:** Media accounts have raised serious questions regarding whether industry interests have inappropriately influenced the development of a number of important environmental regulations. For example:

- Mercury Air Pollution. On January 30, 2004, EPA issued a proposal regarding mercury air pollution regulation. This proposal was similar to — and in some parts copied verbatim from — an industry proposal submitted by the law firm Latham and Watkins.<sup>92</sup> Two EPA officials who played key roles in this rulemaking formerly worked at that law firm but have not provided transparent accounts of their involvement.<sup>93</sup>
- Farm Pollution. Under an EPA proposal unveiled in 2004, hog and other livestock farms that sign up for a two-year air pollution monitoring program could have their past violations of air pollution laws forgiven and would be exempt during the period of the program from federal air pollution enforcement. According to a *Chicago Tribune* article, former EPA officials, as well as state and local officials, asserted that the livestock industry had inappropriate influence on EPA in the development and promotion of this plan. In fact, one official left EPA because of her belief that the meat industry was too influential regarding federal oversight of farms.<sup>94</sup>
- Formaldehyde Air Pollution. In February 2004, EPA approved a regulation concerning formaldehyde emissions using a cancer risk model developed by a chemical industry-funded think that was “about 10,000 times less stringent than the level previously used by EPA in setting general standards for formaldehyde exposure.”<sup>95</sup> In approving this regulation, EPA ignored new data from the National Cancer Institute and the National Institute of Occupational Safety and Health, while relying on a novel legal theory recommended by a timber industry lawyer from the same firm where top EPA air pollution official Jeffrey Holmstead had previously served and represented timber interests. Mr. Holmstead and other EPA officials with former connections to the timber and chemical industry reportedly were involved with pressing for approval of the regulation.<sup>96</sup>

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<sup>92</sup> *Proposed Mercury Rules Bear Industry Mark*, Washington Post (Jan. 31, 2004).

<sup>93</sup> *Id.*; *EPA Led Mercury Policy Shift; Agency Scuttled Task Force that Advised Tough Approach*, Washington Post (Dec. 30, 2003).

<sup>94</sup> *Livestock Industry Finds Friends in EPA; Documents Detail Lobbyists' Impact on Air-Quality Plan*, Chicago Tribune (May 16, 2004).

<sup>95</sup> *EPA Relied on Industry for Plywood Plant Pollution Rule*, Los Angeles Times (May 21, 2004).

<sup>96</sup> *Id.*

**The Republican Response:** In February 2005, Rep. Waxman asked Rep. Tom Davis, the Chairman of the Government Reform Committee, to investigate these and other reports of excessive industry influence on environmental regulations, but the Chairman refused this request.<sup>97</sup> There have been no public hearings in either the House or the Senate to investigate the role industry lobbyists have played in writing environmental regulations during the Bush Administration.

#### **XIV. INFLUENCE OF TOBACCO INDUSTRY LOBBYISTS ON U.S. TOBACCO POLICIES**

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**The Issue:** Over the past several years, a series of Bush Administration actions in international negotiations, trade policy, and tobacco litigation appear to have been influenced by the tobacco industry, which has contributed hundreds of thousands of dollars to President Bush's campaigns.<sup>98</sup> In the international negotiations to develop a Framework Convention on Tobacco Control, the Bush Administration reversed numerous positions taken by the Clinton Administration and backed 10 of the 11 deletions to the draft text that Philip Morris had requested.<sup>99</sup> In international trade negotiations, the U.S. Trade Representative negotiated reduced tariffs on U.S. cigarettes in agreements with South Korea and Chile.<sup>100</sup> And at the conclusion of the Justice Department's tobacco litigation, political appointees at the Department overruled career attorneys and sought significantly reduced penalties from the tobacco industry.<sup>101</sup>

**The Republican Response:** Congressional committees in both the House and Senate have failed to hold hearings to explore evidence of inappropriate influence by tobacco industry on the Bush Administration.

#### **XV. FORMER ATTORNEY GENERAL JOHN ASHCROFT'S CAMPAIGN FUNDRAISING ACTIVITIES**

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**The Issue:** In 2001, questions were raised about the legality of the transfer of a valuable mailing list and rental income earned from the list from Attorney General Ashcroft's leadership PAC to his Senate reelection committee.<sup>102</sup> Under campaign finance laws, which restrict contributions from PACS to not more than \$10,000 per election cycle, this transfer appears to be illegal.<sup>103</sup> Attorney General

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<sup>97</sup> Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Feb. 8, 2005).

<sup>98</sup> See Center for Responsive Politics, OpenSecrets.org, *Tobacco: Top 20 Recipients* (2000 and 2004) (charts showing President Bush received over \$260,000 in campaign contributions from the tobacco industry in 2000 and 2004) (online at crp.org).

<sup>99</sup> See Letter from Rep. Henry A. Waxman to President Bush (Feb. 12, 2003).

<sup>100</sup> See Letter from Rep. Henry A. Waxman to President Bush (Feb. 12, 2003).

<sup>101</sup> See Letter from Rep. Henry A. Waxman to President Bush (Feb. 12, 2003).

<sup>102</sup> *Possible Ashcroft Campaign Violation*, Washington Post (Feb. 1, 2001).

<sup>103</sup> 2 U.S.C. § 441a (A)(2)(A).

Ashcroft argued that he personally owned the mailing list, which would have made the transfer legal.<sup>104</sup> However, he never listed the mailing list as an asset on the disclosure forms he filed as a Senator or Attorney General, which would be a violation of Ethics in Government Act requirements.<sup>105</sup> It would also be a violation of federal tax law if Mr. Ashcroft failed to disclose to the IRS income earned on this asset or pay taxes on it.<sup>106</sup> In June 2003, the Federal Election Commission's General Counsel concluded that Attorney General Ashcroft's PAC had made excessive in-kind contributions through the mailing list and its use.<sup>107</sup> In December 2003, the FEC levied a \$37,000 fine.<sup>108</sup>

**The Republican Response:** Despite the FEC's findings, no congressional committees have investigated the Attorney General's role in these illegal actions.

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<sup>104</sup> *Ashcroft Funds Under Scrutiny*, Washington Post (Mar. 7, 2004).

<sup>105</sup> 5 U.S.C. Appx. § 101 *et seq.*

<sup>106</sup> 26 U.S.C. § 7206 prohibits false statements to the IRS and 26 U.S.C. § 7201 prohibits tax evasion.

<sup>107</sup> FEC, *In the Matter of Spirit of America PAC et al. MUR 5181*, General Counsel Report #4 (June 30, 2003).

<sup>108</sup> FEC, *In the Matter of Spirit of America PAC et al. MUR 5181*, Chair Ellen L. Weintraub and Commissioners Scott E. Thomas and Danny Lee McDonald, Statement of Reasons (June 30, 2003).