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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 10, 2007

The Honorable Tom Davis
Ranking Minority Member
Committee on Oversight and Government Reform
B-350A Rayburn House Office Building
Washington, DC 20515

Dear Mr. Davis:

You have asked that the Committee make a number of document requests of the National Archives for records of the Clinton Administration. The Clinton Administration was subject to vastly more scrutiny by this Committee than the Bush Administration has been, and many of the records you seek may already be in the Committee archives. However, I do agree that the Committee would benefit from requesting copies of any political briefings that the Office of Political Affairs in the Clinton Administration may have given to federal agencies.

Committee Precedents

Some members of our Committee apparently believe that there should be one set of rules for investigating Democratic administrations and another set for investigating Republican administrations. Although they supported the Committee's myriad investigations of the Clinton Administration, they have called the Committee's inquiries into the Bush Administration a "witch hunt"¹ and "very offensive."²

In fact, the Committee has requested far fewer documents from the Bush White House – and received far less cooperation – than it did from the Clinton White House. During the Clinton years, the Chairman of the Committee issued over 1,000 subpoenas to investigate alleged misconduct by the Clinton White House and the Democratic Party and received over 2 million pages of documents. In contrast, the Committee has issued only 11 subpoenas to investigate alleged misconduct by the Bush White House and has received less than 100,000 pages of

¹ *Shays says House probe a 'witch hunt'*, Associate Press (Aug. 23, 2007).

² Statement of Rep. John Mica, House Committee on Oversight and Government Reform, *Hearing on Allegations of Misconduct at the General Services Administration* (Mar. 28, 2007).

The Honorable Tom Davis
September 10, 2007
Page 2

documents. Unlike the Clinton Administration precedent, none of the subpoenas issued to the Bush Administration was issued unilaterally.

In the investigations into the Clinton White House, the Committee required the Democratic National Committee (DNC) to produce over 600,000 pages of documents. In the investigations of the Bush White House, the Committee has received just 211 pages of documents from the Republican National Committee (RNC).

The contrast regarding witness testimony is just as stark. The Committee received testimony, under oath, from 110 Clinton White House officials, including 18 Assistants to the President, White House or Vice Presidential Chiefs of Staff, and White House Counsel.³ We also received testimony under oath from 25 DNC officials, including the DNC Executive Director, Finance Director, Chief Counsel, General Counsel, and Deputy Finance Director.⁴ This Congress, we have taken the testimony under oath of only seven Bush White House officials, none of whom have been Assistants to the President, Chiefs of Staff, or White House Counsel. No RNC officials have testified before the Committee.

Your Requests

In a draft letter that you suggest we send to the Archives, you write: "The Committee on Oversight and Government Reform is investigating whether the White House political affairs staff may have violated the Hatch Act by giving political presentations to executive branch officials." You then propose that we jointly request documents from the Archives from the Clinton Administration to help the Committee "better understand the practices of political officials in the previous administration" and "to provide bipartisan historical context."

I agree with your suggestion that historical context would be helpful to the Committee. Consequently, I will support a request to the Archives for political presentations given to federal agencies by the Clinton White House Office of Political Affairs. I will also support a request for legal guidance that the White House Counsel may have provided to the Office of Political Affairs about the political presentations.

³ These White House officials were Assistants to the President Bruce Lindsey, Harold Ickes, Margaret Williams, Evelyn Lieberman, Doug Sosnik, Bob Nash, Todd Stern, Dee Dee Myers, Mark Lindsay, and David Watkins; White House Chiefs of Staff John Podesta, Erskine Bowles, and Thomas McLarty; Vice Presidential Chief of Staff Roy Neel; and Counsels to the President Beth Nolan, Jack Quinn, Bernard Nussbaum, and Charles Ruff.

⁴ These DNC officials included Executive Director B.J. Thornberry, Finance Director Richard Sullivan, General Counsel Joseph Sandler, Chief Counsel Joseph Birkenstock, and Deputy Director of Finance Cheri Carter.

Regarding the specifics of your other requests, the Committee's own archives of Clinton-era documents are so broad and voluminous that they should already contain responsive documents, if such documents exist. The Commerce Department is a case in point. You suggest that the Committee request documents that relate to travel by officials in the Clinton Commerce Department to events with Democratic candidates for office. The Committee has already sought all travel itineraries, including dates and destinations, for Commerce Secretary Ron Brown and a number of other Commerce officials,⁵ and the Commerce Department provided the Committee responsive documents.⁶ It has also subpoenaed from the DNC all records relating to the Department of Commerce and all communications between any DNC official and Secretary Brown,⁷ and subpoenaed from the White House all records relating to the Chief of Staff to Secretary Brown.⁸ The Committee also requested all records relating to Secretary Brown's appointment schedule or calendar, and all telephone records and records relating to telephone logs of telephone calls kept by or for Secretary Brown,⁹ and the Commerce Department provided responsive documents.¹⁰

Other federal agencies were subject to similar scrutiny during the Clinton Administration. The Committee subpoenaed all DNC records relating to the Departments of Justice, Housing and Urban Development, and Energy.¹¹ And the Committee requested that the Clinton Department of Energy turn over all schedules and phone message pads or logs of Secretary of Energy Hazel

⁵ Letter from Chairman Dan Burton to William Daley, Secretary of the Department of Commerce (Aug. 5, 1997).

⁶ See Letters from John Sopko, Chief Counsel for Special Matters, Department of Commerce, to Chairman Dan Burton (Sept. 12, 1997; Sept. 19, 1997; Oct. 3, 1997; Oct. 14, 1997; Oct. 24, 1997; and Nov. 7, 1997) (describing enclosed documents responsive to the Chairman's August 5, 1997, request).

⁷ Subpoenas from the House Committee on Government Reform and Oversight to the Democratic National Committee (Mar. 4, 1997, and Aug. 22, 1997).

⁸ Subpoena from the House Committee on Government Reform and Oversight to the Executive Office of the President (Mar. 4, 1997).

⁹ Letter from Chairman Dan Burton to William Daley, Secretary of the Department of Commerce (Aug. 5, 1997).

¹⁰ See Letters from John Sopko, Chief Counsel for Special Matters, Department of Commerce, to Chairman Dan Burton (Sept. 12, 1997; Sept. 19, 1997; Oct. 3, 1997; Oct. 24, 1997; and Nov. 7, 1997) (describing enclosed documents responsive to the Chairman's August 5, 1997, request).

¹¹ Subpoena from the House Committee on Government Reform and Oversight to the Democratic National Committee (Mar. 4, 1997).

O'Leary for a three year period from January 1994 through January 1997.¹² Responsive documents were provided to the Committee.¹³

The Clinton White House produced similar documents to the Committee. The Committee issued a subpoena to former White House Counsel Charles Ruff that sought "all records relating to the Democratic National Committee for the period January 20, 1993 to the present."¹⁴ It also subpoenaed the DNC for all records relating to communications with over a dozen senior White House officials, including Jack Quinn, Counsel to the President; Harold Ickes, Deputy Chief of Staff and Assistant to the President; Bruce Lindsey, Senior Advisor, Deputy White House Counsel, and Assistant to the President; and Margaret Williams, Chief of Staff to the First Lady and Assistant to the President.¹⁵ This subpoena specifically sought all communications with Douglas Sosnik, the former Director of the White House Office of Political Affairs and Assistant to the President, whom you mention in your letter.

While these subpoenas and document requests were not worded in exactly the way you now propose, they are likely to encompass much of what you are seeking. They are also far more expansive in scope than the targeted requests the Committee has made of the Bush Administration and the RNC. Thus, I believe Committee members should turn to the Committee's own voluminous files in these areas before new requests to the Archives are considered.

Conclusion

I thank you for your suggestion that the Committee request documents about political presentations during the Clinton Administration. It will provide helpful background to learn whether the Office of Political Affairs in the Clinton White House gave similar political briefings to agencies and, if so, what rules governed those briefings.

I also hope the Committee precedents I have described put my approach to investigating the Bush White House in perspective. My goal is to be thorough but fair. I have sought to make targeted document requests that have concrete factual predicates, not to make the kind of sweeping demands that characterized the Committee's previous investigations of the Clinton

¹² Letter from Chairman Dan Burton to Federico F. Pena, Secretary of the Department of Energy (Aug. 25, 1997).

¹³ *See, e.g.*, Letter from Eric J. Fygi, Acting General Counsel, Department of Energy, to Chairman Dan Burton (Sept. 15, 1997).

¹⁴ Subpoena from the House Committee on Government Reform and Oversight to the Executive Office of the President (Mar. 4, 1997).

¹⁵ Subpoena from the House Committee on Government Reform and Oversight to the Democratic National Committee (Mar. 4, 1997).

The Honorable Tom Davis
September 10, 2007
Page 5

Administration and the DNC. I have also sought to avoid “tit-for-tat” document requests whose only rationale would be that the Committee asked the Clinton White House or the DNC for the same records. And I have invited discussions with the White House, the RNC, and other parties to narrow requests and avoid production burdens wherever possible.

I hope you will join me in supporting these principles – and the investigations themselves – as the Committee’s work proceeds.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, flowing style.

Henry A. Waxman
Chairman