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ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

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February 8, 2005

The Honorable Tom Davis
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On February 4, I received your proposal for the Committee's oversight agenda for the 109th Congress. I support many of the topics you suggest for oversight and look forward to pursuing them on a bipartisan basis.

I am writing to describe 12 additional topics and four previously requested topics that should be incorporated into the oversight plan and examined by our Committee this year. These topics address significant executive branch abuses, such as the mistreatment of detainees; the use of covert propaganda by federal agencies; the politicization of science; the undue influence of industry on environmental regulations; and allegations of conflicts of interest. Other topics involve potential mismanagement involving billions of dollars in taxpayer funds.

One of your predecessors, Chairman William Clinger, argued that control of our Committee should belong to a member of a different political party than the President so as to ensure that our oversight responsibilities are performed independently. I am not proposing such a dramatic change. I am suggesting, however, that our oversight plan should be developed on a bipartisan basis and reflect the views of all members of the Committee.

The oversight plan you propose lists over 140 topics for full committee and subcommittee oversight. Among these topics are "diploma mills," "the activities of the Bureau of Economic Analysis," "the redundant nature of GSA's structure for its Federal Supply Service," and "the federal government's migration to Internet Protocol version IPv6." I don't dispute the value of these topics. But as the primary oversight committee in the House, our Committee has a constitutional responsibility to provide a check on the abuses of the executive branch. We cannot fulfill this responsibility unless we are willing to take on difficult and politically controversial issues and follow the facts where they lead.

Abuse of Detainees

After the initial reports of prisoner abuse at Abu Ghraib surfaced, the Administration claimed these actions were committed by a few "bad apples" at a single facility. It is now apparent, however, that there is considerable evidence of systematic abuse of detainees in Guantanamo Bay and Afghanistan, as well as Iraq. New documents released by the ACLU and uncovered by investigative reporters in the last two months have disclosed horrific practices such as electric shocks, sexual humiliation, beatings, forced enemas, and the use of cigarettes to burn prisoners. Contrary to the "few bad apples" theory, these abhorrent practices have occurred in multiple locations and involved multiple agencies.

Yet despite severity and prevalence of the abuses, Congress has ignored them. During the Clinton Administration, our Committee took 140 hours of testimony in hearings and depositions to examine whether President Clinton mishandled his Christmas card list. After photographs revealed the abuse of prisoners at Abu Ghraib, the House held only five hours of perfunctory hearings in the Armed Services Committee to investigate the abuses and their origins. The once-promising investigation in the Senate Armed Services Committee stalled after an initial round of hearings.

Under the rules of the House, our Committee has clear authority to investigate the Administration's mistreatment and indefinite imprisonment of detainees. In fact, given the multitude of agencies that appear to be implicated in this growing scandal, including the White House, the Department of Defense, the CIA, and the FBI, only our Committee is positioned to conduct the comprehensive investigation that our nation needs.

I therefore urge you to add the following topics to the oversight plan and to make them a top priority for the 109th Congress:

Involvement of Senior Administration Officials in Authorizing or Condoning Detainee Abuse. The new disclosures make it increasingly clear that the abuse of detainees cannot be dismissed as isolated incidents of abuse by low-ranking military and civilian personnel. Yet despite the mounting evidence, there has been no independent oversight to assess where the system has broken down and which officials are responsible. Our Committee should investigate to identify what went wrong and who should be held accountable.

Involvement of Medical Personnel in Detainee Abuse. Articles in leading medical journals have indicated that U.S. Army doctors may have used their medical knowledge to devise coercive interrogation methods for detainees, including sleep deprivation, stress positions, and other abuse. These reports raise fundamental questions — which our Committee should examine — about the proper role of doctors and other medical personnel in intelligence and interrogation settings.

Government Management Investigations

Our Committee has jurisdiction over the "overall economy, efficiency, and management of government operations and activities." In exercising this jurisdiction, our Committee should examine the following issues on a governmentwide basis:

Covert Propaganda and Public Relations Spending. Questions have been raised recently about the use of taxpayer dollars to fund public relations campaigns. GAO has found that the White House Office of National Drug Control Policy and the Department of Health and Human Services engaged in illegal "covert propaganda" by hiring a public relations firm to produce and disseminate fabricated video news reports. Investigative reporters have disclosed that the Department of Education paid a journalist to promote the No Child Left Behind Act in television and radio appearances and that HHS had contracts with at least two syndicated columnists who promoted the President's marriage initiative. These examples of covert propaganda and the sharp rise in spending for public relations campaigns raise questions that our Committee should examine about the extent to which federal agencies across the government are using taxpayer dollars to influence public opinion.

Politicization of Science. Scientific journals, scientific organizations, and leading scientists have called into question the scientific integrity of many Bush Administration actions. Examples include applying political litmus tests to appointments to scientific advisory committees, suppressing scientific reports, gagging scientists, misleading the public about scientific issues, and providing misleading or erroneous scientific information to Congress. These problems, which are occurring governmentwide, should be comprehensively investigated.

Politicization of Inspectors General. By law, the President is required to nominate Inspectors General of federal agencies "without regard to political affiliation" and "solely on the basis of integrity and demonstrated ability." Unlike past administrations, however, the Bush Administration has increasingly politicized the IGs, frequently selecting individuals with Republican White House or congressional experience for these sensitive positions. The Committee should address both these larger trends and specific instances of questionable conduct by IGs, such as the failure of the HHS IG to conduct a thorough investigation into the misleading Medicare cost estimates and the failure of the Army IG to sufficiently investigate detainee abuses.

Executive Branch Conflicts of Interest. There have been repeated reports of conflicts of interest involving high-ranking Administration officials, including reports that senior HHS officials negotiated future employment opportunities at the same time they were negotiating the Medicare prescription drug legislation; that Interior Department officials

met with former lobbying clients; that members of federal advisory boards included executives of corporations that won large contracts from the agencies they were advising; and that senior White House advisor Karl Rove had meetings with executives of companies in which he held stock. Although these conflicts of interest appear to be occurring governmentwide, there has been no congressional investigation of any of these abuses.

Government Secrecy. Government secrecy is expanding under the Bush Administration. Laws like the Freedom of Information Act and the Federal Advisory Committee Act that promote government openness are being narrowed, while laws like the Patriot Act that authorize secret government actions are being expanded. The oversight plan proposes to examine one piece of this problem: the growing use of the secret but unclassified designation. This portion of the oversight plan should be revised to call for a comprehensive examination of the rise in government secrecy.

Procurement Investigations

Our Committee has jurisdiction over federal procurement practices and policies. In exercising this jurisdiction, the following topics should be added to the oversight plan:

Rise in Sole-Source Contracting. In fiscal year 2003, the Bush Administration awarded $107 billion in sole-source and other noncompetitive contracts, an increase of 60% compared to the last year of the Clinton Administration. The Committee should examine the causes and effects of this massive increase, the pitfalls of removing basic safeguards like competition from the procurement process, and who is benefiting from the growth in noncompetitive contracting.

Conflicts of Interest and DHS Contracts. According to recent press accounts, two close aides to Homeland Security Secretary Tom Ridge left government in 2002 to work for Blank Rome, a lobbying firm that represents dozens of companies that subsequently won billions of dollars in contracts awarded by the Department. One staffer was described as "the closest governmental and political adviser to Secretary Tom Ridge for over 18 years."[1] The press accounts also indicate that Secretary Ridge is "close personal friends" with David Girard-diCarlo, Blank Rome's chairman, and stayed overnight for two nights at his Arizona home in November 2002 when Blank Rome was representing Raytheon's interest in a $10 billion border protection contract with the Department.[2] The Committee should investigate whether any of these activities violated ethical or contracting rules and whether an appearance of impropriety may have damaged public confidence in the Department.

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[1] *Ridge Spent Time With Lobbyist,* Associated Press (Jan. 12, 2005).

[2] *Id.*

Health and Environment Investigations

There have been repeated reports in the news media that special interests have had disproportionate access and influence in the development of federal health and environmental policy. Issues in this area that our Committee should examine include the following:

Industry Influence on EPA Rulemaking. Under the Bush Administration, the Environmental Protection Agency has repeatedly allowed regulated industries undue influence over the agency's rulemaking and decision-making processes. Just last week, the EPA Inspector General reported that political appointees compromised the agency's scientific analysis by instructing staff members to arrive at predetermined conclusions on a proposed rule to reduce mercury from coal-fired power plants in order to keep cleanup costs down for the utility industry. Investigative journalists have disclosed other examples of unusually close coordination between EPA and industry representatives, including in the development of regulations, agreements, or findings involving industrial shop towels, increased air pollution from power plants, injection of toxics into drinking water sources, farm pollution, and formaldehyde emissions. The Committee should investigate the overall pattern and specific instances in which regulated industries have exercised improper influence over EPA's rulemaking and decision-making.

Decline of FDA Enforcement. Since the end of 2001, when the Bush Administration put in place a new enforcement policy at FDA, the number of enforcement actions has declined precipitously. For example, warning letters against misleading drug advertisements dropped by approximately 70%, and enforcement actions against biologics companies for manufacturing violations dropped by 80%. Enforcement delays have also increased dramatically. The Committee should investigate the origins, implementation, and consequences of this enforcement policy, with attention to cases where career investigators believed official action to protect the public health was warranted but could not proceed.

Abstinence-Only Education Programs. A minority staff report found that millions of federal dollars are spent on abstinence curricula that are inaccurate or are based on outdated stereotypes of men and women. The Committee should explore how these curricula came to be so erroneous, why HHS approved tens of millions of dollars of funding for them, and how scientific accuracy can be assured in the future.

Previously Requested Investigations

In addition to the investigations listed above, I renew my request that the Committee examine the following issues:

Halliburton's RIO Contract. Last Congress, our Committee focused primarily on Halliburton's logistical support contract (LOGCAP), the largest Iraq contract. The second-largest contract in Iraq is Halliburton's $2.5 billion Restore Iraqi Oil (RIO) contract. Defense Department auditors have now completed several reports on the total amount of overcharges under this contract, but these reports have not been provided to the Committee. The Committee has also not yet received documents it requested seven months ago relating to the process by which Halliburton was selected for the RIO work. The Committee should continue its investigation and insist on receiving this information.

Progress of Iraqi Reconstruction. There is an enormous public interest in knowing how billions of taxpayer dollars are being spent to reconstruct various sectors in Iraq, including electricity, water and sewer, oil, and others. Yet there has been no systematic examination of where federal taxpayer dollars have been spent, what results have been achieved, and how the contractors have performed. On September 23, 2004, my staff requested that the Committee seek briefings from the Administration to examine the progress of reconstruction through a systematic sector-by-sector analysis. To date, there has been no action on this issue.

Outing of CIA Operative. On September 29, 2003, and again on December 11, 2003, I wrote to you requesting Committee hearings on allegations that White House officials breached national security law by disclosing the identity of covert CIA operative Valerie Plame. You declined to pursue this investigation on the grounds that the Justice Department had appointed a special prosecutor, Patrick J. Fitzgerald, to investigate. Mr. Fitzgerald's investigation, however, appears to have gotten off track by targeting journalists rather than the White House officials involved. Moreover, there are many issues relating to this matter that Mr. Fitzgerald is not investigating, such as whether the White House responded appropriately after Ms. Plame's identity was first revealed. These issues should be examined in our Committee.

Misleading Medicare Cost Estimates: Both the HHS Inspector General in a cursory review and GAO have found that information on the true cost of the 2003 Medicare reform law was suppressed in violation of federal law. However, HHS still has not responded to a March 2004 request for information related to the cost estimates and why they were withheld. In addition, the White House has refused to comment on the incident or permit officials involved to testify. As a result, the request that I made on March 17, 2004, for a Committee investigation remains as necessary today as it was 11 months ago.

Conclusion

With a few exceptions — some of which you are responsible for — Congress has largely abdicated its constitutional oversight responsibility. The House and Senate are not providing an

effective check on executive branch abuses or holding the Bush Administration accountable for its mistakes. This has grave implications for our nation.

As the primary oversight committee in the House, our Committee should play a vital role in restoring checks and balances to our system of government. Our goal should be to conduct evenhanded and responsible oversight on a bipartisan basis. Amending the oversight plan to incorporate the suggestions in this letter would be a major step in the right direction.

Sincerely,

Henry A. Waxman
Ranking Minority Member

cc: Members of the Committee on Government Reform