

One of Congress' main constitutional responsibilities is to conduct oversight to check abuses of power by other branches of government. During the last four years, however, Congress has failed to conduct meaningful investigations of allegations of serious misconduct involving the Bush Administration. As described below, Congress has failed to investigate:

- The role of the White House in promoting misleading intelligence about Iraq's weapons of mass destruction and ties to al-Qaeda;
- The responsibility of senior Administration officials for the abuses at Abu Ghraib;
- The role of the Vice President's office in the award of Halliburton contracts;
- The role of the White House in withholding the Medicare cost estimates from Congress;
- The identity of the energy industry campaign contributors that met with the Vice President's energy task force;
- The role of White House officials in leaking the identity of a covert CIA agent;
- The influence of industry lobbyists in writing EPA regulations;
- Allegations of conflicts of interest at multiple federal agencies and the White House; and
- The role of Attorney General Ashcroft in illegal campaign finance activities.

### Iraq's Weapons of Mass Destruction and Ties to Al-Qaeda

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>1</sup> As described in a March 2004 report by the Special Investigations Division of the House Government Reform Committee minority staff, top Administration officials made 237 specific misleading statements regarding Iraq's nuclear, chemical, and biological capabilities, as well as Iraq's ties to Al-Qaeda.

<sup>2</sup>

Congressional leaders, however, have refused to hold public hearings to examine

representations made by top Administration officials about intelligence on Iraq. Even with respect to closed-door investigations, the former House Intelligence Committee chairman stated, "I'm not going into what the customer did with the intelligence."<sup>3</sup> The Senate Intelligence Committee also has failed to hold public hearings on the matter. Only recently and after pressure from the minority did the Senate Committee ultimately agree to look at this issue, but it remains unclear exactly when and to what extent the Committee will focus on this issue. 4

### [Prisoner Abuse at Abu Ghraib, Guantanamo, and Other Military Prisons](#)

Dating back as far as 2002, there have been accounts in the press and by human rights groups of alleged U.S. mistreatment of detainees at Guantanamo, in Iraq, and at other detention facilities.<sup>5</sup> It was not until the horrific Abu Ghraib photos surfaced in April 2004, however, that congressional committees held any public hearings to investigate the subject. 6

Even then, the Republican leadership failed to aggressively pursue key issues such as how far up the chain of command responsibility lies for decisions about U.S. treatment of detainees. As the *New York Times* noted last month, even the Senate Armed Services Committee, which has been the most active of the committees, is not going to accomplish this task:

After months of Senate hearings and eight Pentagon investigations, it is obvious that the administration does not intend to hold any high-ranking official accountable for the nightmare at Abu Ghraib. It was pretty clear yesterday that Senator John Warner's well-intentioned hearings of the Armed Services Committee are not going to do it either. 7

### [The Role of the Vice President's Office in the Award of Halliburton Contracts](#)

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 sole-source contract worth up to \$7 billion to implement the contingency plan. After the public disclosure of these contracts on March 24, 2003, 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>8</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.

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Contrary to these assertions, the decision to award the contracts to Halliburton was made by a political appointee, and the Vice President's chief of staff and other senior White House and Administration officials were briefed in advance.<sup>10</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."

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Despite these revelations, 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, for example, the Republicans on the House Government Reform Committee, led by Chairman Tom Davis, voted down a motion to subpoena the communications between the Defense Department and the Vice President's office.

## The Withholding of the Medicare Cost Estimates

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>12</sup> Other Administration officials including Tom Scully, then Administrator of the Centers for Medicare and Medicaid Services, reiterated this figure without qualification.

<sup>13</sup> After enactment of the bill, however, news accounts revealed that HHS's chief actuary had prepared cost estimates showing that the bill would cost \$500 to \$600 billion and that Mr. Scully had threatened the actuary with the loss of his job if he shared this information with congressional Democrats.

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The White House also reportedly was aware of the higher estimates.

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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.

## Vice President Cheney's Energy Task Force

Congressional committees have failed to investigate the evidence that energy companies that contributed to the President's campaign wielded inappropriate influence over the development of the Administration's energy policy. 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>16</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>17</sup>

Yet despite this evidence of inappropriate influence, congressional committees have failed to investigate who met with the Vice President's energy task force. For example, when Reps. John Dingell, Edward Markey, and Henry Waxman brought a resolution of inquiry before the House Energy and Commerce Committee, the Republican members of the Committee refused to permit debate on the motion and voted it down.

<sup>18</sup>

### [The Role of White House Officials in Leaking the Identity of a Covert CIA Agent](#)

In a column that appeared in major national newspapers on July 14, 2003, columnist Robert Novak publicly identified Valerie Plame, wife of former Ambassador Joseph Wilson, as a covert CIA agent. <sup>19</sup> This article cited "two senior administration officials" as the source. The Washington Post subsequently reported, "two top White House officials called at least six journalists and disclosed the identity and occupation of Wilson's wife."

<sup>20</sup>

According to press accounts, these actions were part of a White House effort to discredit Ambassador Wilson, who had disputed the President's assertion that Iraq sought uranium from Africa.

<sup>21</sup>

This leak of a CIA agent's identity potentially violated national security laws and raised other serious questions, including whether the White House had an appropriate system for protecting security secrets and whether the White House was seeking to intimidate whistleblowers.

<sup>22</sup>

Congress to date has failed to investigate this matter.

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### **The Role of Industry in Writing Environmental Regulations**

Media accounts have raised serious questions regarding whether industry interests have inappropriately influenced the development of a number of important environmental regulations, but no congressional hearings have been held to investigate these reports. For example, no hearings have been held on any of the following instances of excessive industry influence:

- [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 — an industry proposal submitted by the law firm Latham and Watkins.

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Two EPA officials key to this rulemaking formerly worked at that law firm but have not provided transparent accounts of their involvement.

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- [Reusable Shop Towels](#). On November 20, 2003, EPA proposed to change federal regulations regarding the handling of soiled reusable shop towels, providing for new exemptions from solid and hazardous waste requirements.<sup>26</sup> According to a Washington Post article, the industrial laundry industry had extensive access to agency decision-makers, while a wide range of other stakeholders did not. 27

- [Farm Pollution](#). Under an EPA proposal unveiled in 2004, farms that sign up for a two-year air pollution monitoring program would 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, have asserted that the meat industry had inappropriate influence on EPA in the development and promotion of this plan. One EPA official left EPA because of her belief that the meat industry was too influential regarding federal oversight of farms. Internal EPA documents lend credence to these allegations. For example, EPA slide show presentations in 2003 on the farm monitoring program relied heavily on slides provided by the meat industry. 28

- [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." 29

In approving this regulation, EPA failed to address new studies issued by the National Cancer Institute and National Institute of Occupational Safety and Health during the rulemaking process that showed that formaldehyde exposure may cause leukemia. In addition, EPA relied on a novel legal theory concerning application of the Clean Air Act that was 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. 30

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. 31

## Ethics Allegations

Republican congressional leaders have refused to probe allegations that a number of top

Bush Administration officials engaged in unethical conduct. For example:

- Interior Conflicts of Interest. There have been no investigations of reports that Former Deputy Interior Secretary James Steven Griles had meetings on policy matters concerning clients of his former lobbying firm. 32

- HHS Conflicts of Interest. There have been no investigations of reports that former chief Medicare official Tom Scully negotiated future employment representing entities with a significant stake in the Medicare drug legislation while drafting the measure. 33

- White House Conflicts of Interest. There have been no investigations of reports that the President's top political advisor, Karl Rove, had meetings and phone calls with representatives of companies in which he held stock. 34

- DOD Conflicts of Interest. There have been no investigations of reports that Richard Perle, the former chairman of the Defense Policy Board, an influential Pentagon board that advises the Secretary of Defense, 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. 35

## **Allegations Regarding Attorney General John Ashcroft's Campaign Fundraising Activities**

In 2001, questions were raised about the legality of the transfer of a valuable mailing list from Attorney General Ashcroft's leadership PAC to his Senate reelection committee.<sup>36</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.

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Attorney General Ashcroft argued that he personally owned the mailing list, which would have made the transfer legal.

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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.

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It would also be a violation of federal tax law if Mr. Ashcroft failed disclose to the IRS income earned on this asset or pay taxes on it.

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In June 2003, the Federal Election Commission's Office of General Counsel concluded that Attorney General Ashcroft's PAC had made excessive in-kind contributions through the mailing list and its use.<sup>41</sup> In December 2003, the FEC agreed to a \$37,000 fine.<sup>42</sup> Despite the FEC's findings, no congressional committees have investigated the Attorney General's role in these illegal actions.

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## ENDNOTES

1 See Letter from Rep. Henry A. Waxman to National Security Advisor Condoleezza Rice (July 29, 2003); Letter from Rep. Henry A. Waxman to Reps. Porter J. Goss and Jane Harman (July 15, 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).

2 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 <http://democrats.reform.house.gov/IraqOnTheRecord>).

3 Republicans Dismiss Questions over Strength of Evidence on Banned Weapons in Iraq, New York Times (June 18, 2003).

4 See Senate Iraq report Said to Skirt White House Use of Intelligence, New York Times (July 8, 2004).

5 Human Rights Watch, Timeline of Detainee Abuse Allegations and Responses (2004) (online at <http://hrw.org/english/docs/2004/05/07/usint8556.htm>).

6 See House Committee on Armed Services, Hearing on the Investigation into the Abuse of Prisoners within the Central Command Area of Responsibility (May 7, 2004); Senate Committee on Armed Services, Hearings to Receive Testimony on Allegations of Mistreatment of Iraqi Prisoners (May 7, May 11, and May 19, 2004).

7 No Accountability on Abu Ghraib, New York Times (Sept. 10, 2004).

8 Meet the Press, NBC News (Sept. 14, 2003).

9 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).

10 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).

11 See *id.* The Army Corps of Engineers official who authored the March 5, 2003, e-mail wrote a June 7, 2004, memo explaining the e-mail in which he stated he did not know or could not recall the nature of coordination with the Vice President's office or the officials in that office who were involved in coordination. *Id.*

12 President Bush, Media Availability after Meeting with Medicare Conferees (Nov. 17, 2003).

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

14 Official Says He Was Told to Withhold Medicare Data, *Washington Post* (Mar. 13, 2004); June 20 Directive Says 'Work up the Numbers' and Points to 'Consequences for Insubordination,' *Wall Street Journal* (Mar. 18, 2004).

15 Democrats Demand Inquiry into Charge by Medicare Officer, *New York Times* (Mar. 14, 2004).

16 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).

17 See Minority Staff, Special Investigations Division, House Government Reform Committee, White House Energy Plan Recommendations Benefit Campaign Contributors (Mar. 22, 2002).

18 House Panel Rejects Democratic Push for Info on Cheney's Energy Task Force, *Environment and Energy Daily* (Sept. 16, 2004).

19 Robert D. Novak, *The Mission to Niger*, Chicago Sun-Times (July 14, 2003).

20 Bush Administration Is Focus of Inquiry, Washington Post (Sept. 28, 2003).

21 *Id.*

22 Letter from Rep. Henry A. Waxman to Chairman Tom Davis (Dec. 11, 2003).

23 For example, the House Intelligence, Armed Services, International Relations, and Judiciary Committees all voted against a resolution of inquiry authored by Rep. Rush Holt that would have required top Administration officials to produce to the House documents relating to the disclosure of the identity and employment of Valerie Plame. House Select Committee on Intelligence, *Requesting the President and Directing the Secretary of State, the Secretary of Defense, and the Attorney General to Transmit to the House of Representatives Not Later Than 14 Days after the Date of the Adoption of This Resolution Documents in the Possession of the President and Those Officials Relating to the Disclosure of the Identity and Employment of Ms. Valerie Plame* (H. Rept. 108-413, Part I) (Feb. 3, 2004); House Committee on Armed Services, *Requesting the President and Directing the Secretary of State, the Secretary of Defense, and the Attorney General to Transmit to the House of Representatives Not Later Than 14 Days after the Date of the Adoption of This Resolution Documents in the Possession of the President and Those Officials Relating to the Disclosure of the Identity and Employment of Ms. Valerie Plame* (H. Rept. 108-413, Part IV) (Feb. 27, 2004); House Committee on International Relations, *Requesting the President and Directing the Secretary of State, the Secretary of Defense, and the Attorney General to Transmit to the House of Representatives Not Later Than 14 Days after the Date of the Adoption of This Resolution Documents in the Possession of the President and Those Officials Relating to the Disclosure of the Identity and Employment of Ms. Valerie Plame* (H. Rept. 108-413, Part II) (Feb. 27, 2004); House Committee on the Judiciary, *Requesting the President and Directing the Secretary of State, the Secretary of Defense, and the Attorney General to Transmit to the House of Representatives Not Later Than 14 Days after the Date of the Adoption of This Resolution Documents in the Possession of the President and Those Officials Relating to the Disclosure of the Identity and Employment of Ms. Valerie Plame* (H. Rept. 108-413, Part III) (Feb. 27, 2004).

24 *Proposed Mercury Rules Bear Industry Mark*, Washington Post (Jan. 31, 2004).

25 *Id.*; *EPA Led Mercury Policy Shift; Agency Shuttled Task Force that Advised Tough Approach*, Washington Post (Dec. 30, 2003).

26 U.S. EPA, Hazardous Waste Management System: Identification and Listing of Hazardous Waste: Conditional Exclusions from Hazardous Waste and Solid Waste for Solvent-Contaminated Industrial Wipes, Proposed Rule, 68 Fed. Reg. 65586 (Nov. 20, 2003).

27 See Fundraiser Denies Link Between Money, Access, Washington Post (May 17, 2004).

28 Livestock Industry Finds Friends in EPA; Documents Detail Lobbyists' Impact on Air-Quality Plan, Chicago Tribune (May 16, 2004).

29 EPA Relied on Industry for Plywood Plant Pollution Rule, Los Angeles Times (May 21, 2004).

30 Id.

31 Id.

32 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).

33 See Medicare Chief Joins Firm with Health Clients, New York Times (Dec. 19, 2003).

34 See Intel Pitched Proposed Merger to Rove, Associated Press (June 14, 2001).

35 Pentagon Advisor Is Stepping Down, New York Times (Mar. 28, 2003).

36 Possible Ashcroft Campaign Violation, Washington Post (Feb. 1, 2001).

37 2 U.S.C. § 441a (a)(2)(A).

38 Ashcroft Funds Under Scrutiny, Washington Post (Mar. 7, 2004).

39 5 U.S.C. App. § 101 et seq.

40 26 U.S.C. § 7206 prohibits false statements to the IRS and 26 U.S.C. § 7201 prohibits tax evasion.

41 FEC, In the Matter of Spirit of America PAC et al. MUR 5181, General Counsel Report #4 (June 30, 2003).

42 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 (Dec 12, 2003).

### **Documents and Links**

- [Fact Sheet: Congress's Abdication of Oversight Responsibility](#)