

NLWJC - Kagan

Counsel - Box 025 - Folder 011

Mission statement

Judges
submit rules
help manage
litigation - public
or US
exec etc
leg etc.

Draft by
mid of
Thursday.

Mission statement
for office
3-pp document

Areas:

mission of office
job description - ^{judges, P of other depts}
additional tools to accomplish mission
how we interact w/ other depts
overlap w/ other depts?
what req mths currently hold
how work. (MWF) ^{1x wks of DOS / ~~judges~~}
what should Admin's goals be
& how can office contribute to
that.

relationships w/ Cong
on inves. mths.

obvious.
legislative
press
circles. volume of
many projects -
has made that
possible

Lauren Davis
Jim Weber
Jim Yarowsky

~~Don't need more people
need flexibility to ↑ detailers
- invs. bump
productive relationship w/ Torkelson -
she's done
need to be able to continue
this.~~

~~one-to restore why relationship w/ Repub Corp -
can manage inves. mths in way
that will do that
+ strk w/ alliance w/ Dems.~~

when
Conf
doing
something

All: 1x a mo.
or (every 2 mos) -
considering -
other G-6s

also-??? - make sure our accommodations
leave groups of Presidency intact
need to strike balance so
don't give away

Time:
we're high, realistic,
political -
know when to bend/
when to hang tough.

*To Elena, what a great job,
KW*

November 21, 1996

DRAFT

MEMORANDUM FOR ERSKINE BOWLES

FROM: JACK QUINN

SUBJECT: MISSION STATEMENT -- COUNSEL'S OFFICE

The mission of the Counsel's Office is to provide legal advice and support to the President and other members of the Executive Office with respect to their official duties. As part of this mission, the Counsel's Office deals with investigations of Administration actions by Congressional committees and independent counsels; provides advice concerning the ethics laws to the entire White House staff; ensures the appropriateness of contacts between the White House and the agencies; oversees the vetting of executive branch nominees; coordinates the selection of judicial branch nominees; works with the Justice Department in determining the litigation position of the United States in important or controversial cases; advises the President on proposed Constitutional amendments, criminal justice policy, and law reform proposals; and provides legal analysis on a wide range of legislative and policy initiatives, such as campaign finance regulation, abortion law, and welfare reform. In performing all of these functions, the Counsel's Office attempts to combine rigorous legal advocacy and analysis with fine-tuned political judgment.

I. Structure, Functions, and Needs of the Counsel's Office

The Counsel's Office currently has 16 attorneys: a counsel, two deputy counsels, one special counsel, 7 associate counsels, 4 special associate counsels, and one special assistant. The Counsel and one deputy counsel (Wallman) have overall supervisory responsibility. The other deputy counsel (Lindsey) plays a lead role with respect to certain issues (for example, law reform proposals), in addition to performing functions not specifically related to the counsel's office. The special counsel and special associate counsels have had primary responsibility for handling major investigations -- in particular, Whitewater, the Travel Office, and the FBI files matter. This group of lawyers, in addition to performing standard legal functions, has a substantial role in dealing with Congress and the press on investigative matters. One associate counsel has responsibility for the process of selecting judicial nominees and guiding them through the confirmation process. The other associate counsels have overlapping areas of responsibility, but generally fall within one of two categories. The first group enforces the many ethics standards applicable to the White House, including rules relating to financial disclosures, conflicts of interest, contacts with agencies, and the appropriate use of official resources; because of the close relation between many of these rules and personnel decisions, it also vets executive branch nominees. The second group provides the President and a variety of White House offices with substantive analysis and advice, whether regarding litigation positions (for example, on

physician-assisted suicide), proposals to reform the civil and criminal justice systems (for example, on tort reform), or legal issues involved in other legislative and administrative initiatives (for example, in implementation of the welfare law).

The nature of the Counsel's Office work necessitates coordination with other offices in the White House. In addition to the 16 lawyers actually assigned to the Counsel's Office, a number of lawyers from other White House offices regularly attend Counsel's Office meetings. These include two lawyers on the staff of the National Security Council, who report to the Counsel on legal matters arising from the conduct of foreign relations; the Counsel to the Vice President; the Counsel to the Office of Administration, who has become involved in certain investigative matters; and a member of the Legislative Affairs Office with special responsibility for congressional investigations. Conversely, two lawyers from the Counsel's Office involved in handling investigative matters -- Fabiani/Davis and Yarowsky -- share functions with, and have close relations to, the Press Office and Legislative Affairs Office, respectively.

In addition, all attorneys in the Counsel's Office have a substantial amount of work-related interaction with other White House offices. The ethicists have extensive dealings with the Office of Management and Administration and Presidential Personnel, but they also deal with inquiries from every corner of the White House. The attorneys who primarily work on policy issues have regular relations with individuals in the Chief of Staff's Office, the Domestic Policy Council, National Economic Council, Council on Environmental Quality, Legislative Affairs Office, and Office of Management and Budget. In addition, almost all attorneys, at one time or another, work with the Press Office.

The Counsel's Office holds ^{policy} meetings three times each week for all attorneys. At these meetings, attorneys raise issues arising from their work for general office discussion and update the Counsel and Deputy Counsels on ongoing projects. The Counsel and one Deputy Counsel also hold a weekly meeting with officials of the Justice Department (the Deputy Attorney General, Associate Attorney General and Assistant Attorney General for the Office of Legal Counsel) to discuss matters pending in that Department of interest to the White House. Finally, the Counsel, Deputy Counsels, and Associate Counsel in charge of judicial selection hold a meeting each week Congress is in session, with representation from the First Lady's Office, Vice President's Office, Legislative Affairs Office, and Office of Policy Development of the Justice Department, to discuss pending and potential judicial nominations. In addition to these three regular meetings, the Counsel's Office plans to ~~initiate a meeting once each month~~ with General Counsels of the Cabinet departments.

The Counsel's Office does not need more staff positions than it now has. The Office does need the flexibility to bring over detailees from other agencies in order to respond to short-term increases in workload. For example, the Counsel's Office is now using more than 10 detailees to vet nominees for executive branch positions. Similarly, the Office may need to use detailees to respond to future bumps in investigative work. In the past, the Office has had a productive relationship with Jody Tonkelson, who has understood and accommodated the Office's need for flexibility. It is extremely important to the Counsel's Office that this pattern of flexibility and accommodation continue in the future.

ie

currently

regularize its contacts with
by instituting a once-a-month meeting with that group.

II. Contribution of the Counsel's Office to Administration Goals *and maintain*

A critical challenge for the Administration is to establish a useful working relationship with the Republican Congress while resisting that body's efforts to invade necessary Presidential powers and prerogatives. The handling of congressional investigations by the Counsel's Office can advance these twin goals. In approaching these investigations, the Office should seek to promote the President's interest in effective governance by making all reasonable accommodations to congressional demands for information. At the same time, the Counsel's Office must ensure that its accommodations leave intact the core powers of the President, so that he can continue to perform his constitutional functions. Striking this balance -- knowing when to bend to congressional will and when to assert appropriate presidential prerogatives -- is a difficult but absolutely essential task, which requires toughness, realism, and political judgment.

A second challenge for the Administration is to advance the President's policy agenda -- through Congress if a productive working relationship is achieved, through executive action if such efforts fail, and through litigation when that course is necessary or desirable. The Counsel's Office can play an important role in achieving this objective. The Counsel's Office can guide White House consideration of litigation positions, as the Office recently did on briefs concerning physician-assisted suicide and remedial education assistance for parochial schools. The Counsel's Office also can take the lead role on law reform issues, such as proposals (sure to be taken up in the next Congress) limiting product liability or securities lawsuits. Finally, when another White House Office has primary responsibility for advancing a policy objective, the Counsel's Office can provide significant legal advice and support -- as it has done, for example, in efforts to enact and implement welfare reform.

A third challenge for the Administration is to fill quickly and well all executive and judicial vacancies, so that these two branches of government can function effectively. Working with the Personnel Office (for executive branch nominees) and the Justice Department (for judicial nominees), the Counsel's Office can play a central role in fulfilling the President's commitments to excellence and balance in appointments. In performing this task, the Office should carefully vet all nominees to prevent any embarrassment to the President.

Finally, though perhaps most importantly, the Administration must maintain its commitment to the highest ethical standards. The Counsel's Office can and does promote this goal by ensuring full compliance with ethical laws, whether regarding conflicts of interest, financial disclosures, or the appropriate use of official resources. More generally, the Office promotes this goal by acting, and encouraging others to act, in accordance with the values of candor and integrity. The fortunes of this Administration will ride in large measure on its reputation for honest dealing, and the Counsel's Office can take the lead in enhancing and protecting that reputation.

November 21, 1996

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also:
review
pardons
recommendations
response to
document
requests and
subpoenas

The senior counselling

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to the President

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a number of

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undertaking certain responsibilities particularly with respect to presidential travel,

for a wide range of other counselling and policy matters

II. Contribution of the Counsel's Office to Administration Goals

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Handwritten notes:
we should be in the loop -
to counsel the President
to the OLC
to the Dept of Justice
to the Dept of Education
to the Dept of Health and Human Services
to the Dept of Labor
to the Dept of State
to the Dept of Treasury
to the Dept of Veterans Affairs
to the Dept of Housing and Urban Development
to the Dept of Transportation
to the Dept of Energy
to the Dept of the Interior
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