

TO:	Interested Parties
FROM:	Matt Bennett, Vice President for Public Affairs and Michael Earls, Culture Project Policy Advisor
SUBJECT:	Conservative Abuses of Power

When they took over the reins of federal power, conservatives in Congress and the White House campaigned on promises to “restore the bonds of trust between the people and their elected representatives” (“The Republican Contract with America”) and to “restore honor and dignity to the Oval Office” (Bush 2000). But in the last five years, those same leaders have abused their positions of power in a manner more naked and profound than any Washington has seen since at least the Teapot Dome scandal in the 1920s. This has left even their fellow conservatives up in arms – John Dean, President Nixon’s White House Counsel, has recently published books detailing these abuses entitled “Conservatives Without Conscience” and “Worse Than Watergate.”

Third Way recommends that progressives use “abuse of power” as a theme to unify a range of issues. Below, find 10 egregious examples of such abuse:

- ***Intervention in Family Medical Decisions:*** The congressional intervention in the Terri Schiavo medical controversy grossly overstepped the bounds of appropriate legislative activity. U.S. Circuit Judge George Greer found “no cogent reason why the (congressional) committee should intervene.”¹
- ***Refusal to Enforce the Law:*** Using “signing statements,” the Bush administration has challenged more than 800 laws passed by Congress since taking office. Instead of vetoing bills – which would encourage a public debate on the topic per the Framers’ wishes – the administration has signed legislation into law and *then* proceeded to ignore it. The American Bar Association called Bush’s use of signing statements “contrary to the rule of law and our constitutional system of separation of powers.”² Moreover, this creates a maze of legal bureaucracy that is as bewildering as it is unprecedented.
- ***Sabotaging the Role of Congress:*** Despite Congress’s role as a check on executive power, the Bush administration has questioned the relevance of congressional oversight – despite the fact that “rubber stamp” conservatives control Congress. In testimony before the Senate Judiciary Committee, Attorney General Alberto Gonzales claimed that submitting to oversight of warrantless wiretapping would be “effectively killing the program.”³ And conservatives have meekly acquiesced – as Senate Judiciary Chairman Arlen Specter admitted: Congress “is more concerned about re-election and fundraising and who controls the House and the Senate than about asserting constitutional prerogatives.”⁴
- ***Bribery of Members of Congress:*** A conservative House member is already in prison for such abuses as writing up a bribe menu for lobbyists that detailed precisely what gifts were required to secure legislative outcomes (e.g., \$140,000 and yacht bought a \$16 million Defense contract).⁵ The Chairman of the House Appropriations Committee is under investigation for making a huge profit from an investment tied to a recipient of his federal largess.⁶ And many other members of Congress are under investigation for their

dealings with convicted lobbyist Jack Abramoff, who exchanged lavish perks for favorable legislative treatment of various lobbying clients.⁷ Even former Speaker of the House Newt Gingrich, himself deposed in a scandal, has said of the recent charges: “People did the wrong things and they should not be allowed to get away with it.”⁸

- ***Flouting Rules of Congress:*** Leaders in Congress routinely hold votes “open” until they round up the support they need to ram through their legislation, such as the 2003 vote on the Medicare prescription drug benefit and other votes held in the middle of the night.⁹ During the Medicare vote, conservative leadership stationed guards at the floor exits to keep potential conservative “no” votes from exiting the premises and avoiding the purported attempts to bribe, cajole, and force members to support the contentious legislation.¹⁰
- ***Wasteful and Bloated Governance:*** Earmarks for pork-barrel projects such as the “Bridges to Nowhere” have flourished under conservatives. Since 1994, the “number of home-district earmarks jumped from 4,155, valued at about \$29 billion in 1994, to 14,211, worth nearly \$53 billion 10 years later, according to the Congressional Research Service.”¹¹ Often pet project earmarks are inserted at the last minute, away from the prying eyes of those who would oppose its inclusion.
- ***Illegal Redrawing of Districts:*** The U.S. Supreme Court recently ruled that a West Texas district redrawn under a redistricting plan spearheaded by then House Majority Leader Tom DeLay violated the Voting Rights Act.¹² The House Ethics Committee also found that DeLay’s use of F.A.A. resources to track lawmakers who had fled Texas to protest the redistricting plan raised “serious concerns under House standards of conduct that preclude use of governmental resources for a political undertaking.”¹³
- ***Misuse of Intelligence:*** According to Paul Pillar, the CIA’s former lead Middle East analyst, the Bush administration disregarded the intelligence “community’s expertise, politicized the intelligence process, and selected unrepresentative” raw intelligence to make the case for the Iraq War.¹⁴ Additionally, senior CIA leaders said Vice President Cheney and his staff made analysts feel “pressured to make their assessments fit with the Bush administration’s policy objectives”¹⁵
- ***Failure to Follow the Law:*** The Bush administration has authorized the National Security Agency (NSA) to conduct surveillance on thousands of American citizens’ phone calls without obtaining the warrant required under law by the 1978 Foreign Intelligence Surveillance Act (FISA).¹⁶ Bruce Fein, a Deputy Attorney General under Ronald Reagan, called the wiretapping program clearly “inconsistent with the separation of powers.”¹⁷ In August 2006, a federal judge struck down the program as unconstitutional.¹⁸
- ***Rejection of Basic Geneva Convention Rights:*** The Supreme Court ruled that detainees at Guantanamo Bay are entitled to rights afforded by the Geneva Convention.¹⁹ The Bush administration called the Convention, which has the full-force of American law, “quaint” and has indicated that it does not intend to enforce the treaty.²⁰ John McCain has said “all human beings, no matter how evil they are, have the right to some kind of adjudication.”²¹

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- ¹ *Associated Press*, “Schiavo’s Feeding Tube Removed Despite Congressional Intervention,” March 19, 2005. (http://www.usatoday.com/news/washington/2005-03-18-congress-schiavo_x.htm)
- ² American Bar Association, “Task Force on Presidential Signing Statements and the Separation of Powers Doctrine” (http://www.abanet.org/op/signingstatements/aba_final_signing_statements_recommendation-report_7-24-06.pdf)
- ³ Stuart Taylor, “Dangerous Claims, Slippery Games,” *National Journal*, February 13, 2006 (<http://nationaljournal.com/members/buzz/2006/openingargument/021306.htm>)
- ⁴ Laurie Kellman, “Sen. Specter Threatens to Block NSA Funds,” *Associated Press*, Apr. 27, 2006 (<http://www.forbes.com/home/feeds/ap/2006/04/27/ap2704543.html>)
- ⁵ *ABC News*, “From Cash to Yachts: Congressman’s Bribe Menu,” Feb. 27, 2006 (<http://abcnews.go.com/Politics/story?id=1667009&page=1>)
- ⁶ Michael Blood, “Calif. Congressman Saw Profit from Bank,” *Associated Press*, July 19, 2006 (<http://www.washingtonpost.com/wp-dyn/content/article/2006/07/19/AR2006071901365.html>)
- ⁷ *The Washington Post*, “The Abramoff Echo,” July 24, 2006 (<http://www.washingtonpost.com/wp-dyn/content/article/2006/07/23/AR2006072300448.html>)
- ⁸ Michael Scherer “Newt: I’m Shocked, Shocked by the Abramoff Scandal,” *Salon*, Jan. 5, 2006 (<http://www.salon.com/news/feature/2006/01/05/gingrich/>)
- ⁹ Bob Cusack, “The Night the Clocks, Scoreboard Stood Still,” *The Hill*, November 16, 2005 (<http://www.hillnews.com/thehill/export/TheHill/News/Frontpage/111605/news2.html>)
- ¹⁰ *Ibid*
- ¹¹ Jonathan Weisman and Charles R. Babcock, “K Street’s New Ways Spawn More Pork,” *Washington Post*, January 27, 2006 (<http://www.washingtonpost.com/wp-dyn/content/article/2006/01/26/AR2006012602221.html>)
- ¹² Charles Lane and Dan Balz, “Justices Affirm GOP Map for Texas,” *Washington Post*, June 29, 2006 (<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/28/AR2006062800660.html>)
- ¹³ Letter to Congressman Tom DeLay, U.S. House of Representatives Committee on Standards of Official Conduct, October 6, 2004. http://www.house.gov/ethics/DeLay_letter.htm
- ¹⁴ Paul Pillar, “Intelligence, Policy, and the War in Iraq,” *Foreign Affairs*, March/April 2006 (<http://www.foreignaffairs.org/20060301faessay85202/paul-r-pillar/intelligence-policy-and-the-war-in-iraq.html>)
- ¹⁵ Walter Pincus and Dana Priest, “Some Iraq Analysts Felt Pressure from Cheney Visits,” *Washington Post*, June 5, 2003 (<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&contentId=A15019-2003Jun4¬Found=true>)
- ¹⁶ James Risen and Eric Lichtblau, “Bush Lets U.S. Spy on Callers Without Courts,” *New York Times*, December 16, 2006 (<http://www.nytimes.com/2005/12/16/politics/16program.html?ei=5090&en=e32072d786623ac1&ex=1292389200>)
- ¹⁷ Charlie Savage, “On Eve of Hearing, Split on Spying,” *Boston Globe*, February 5, 2006 (http://www.boston.com/news/nation/articles/2006/02/05/on_eve_of_hearing_split_on_spying/)
- ¹⁸ David Stout. “Federal Judge Orders End to Warrantless Wiretapping,” *New York Times*, August 17, 2006. (<http://www.nytimes.com/2006/08/17/washington/17cnd-nsa.html?ex=1313467200&en=9c107bcba3ed54d1&ei=5088&partner=rssnyt&emc=rss>)
- ¹⁹ *CNN*, “White House: Detainees entitled to Geneva Conventions protections,” July 11, 2006 (<http://www.cnn.com/2006/POLITICS/07/11/congress.guantanamo.ap/index.html>)
- ²⁰ William Branigin, “Gonzales Pledges to Preserve Civil Liberties,” *Washington Post*, January 6, 2006 (<http://www.washingtonpost.com/wp-dyn/articles/A52815-2005Jan6.html>)
- ²¹ Paisley Dodds, “McCain Still Concerned About Guantanamo,” *Associated Press*, January 27, 2006 (<http://www.abcnews.go.com/International/wireStory?id=1549510>)