



Written by [Joe Wolverton, II, J.D.](#) on November 8, 2010

Republican Leaders Promise Investigations: Will They Deliver?

President Obama had better head for an undisclosed location because thanks to last week's electoral victories, incoming GOP committee chairmen are about to drop a little oversight "shock and awe" on the West Wing.

According to a recent [story published at politico.com](#), if recent history is a reliable guide, then the soon-to-be-sworn-in Republican committee leadership will waste no time in unleashing a barrage of requests for copies of confidential executive branch communications. "Veterans of the contentious battles of the Clinton administration warn that the Obama White House is entirely unprepared for the level of scrutiny it is about to experience," writes Josh Gerstein in the Politico article.



Mr. Gerstein's journalistic heads-up goes on to explain that over the next couple of years that remain of the Obama administration, Republican lawmakers will likely deluge the staff of the West Wing with subpoenas demanding production of all memoranda, email, and other papers that touch and concern the inner workings of ObamaCare, the metes and bounds of the stimulus package, and the whys and wherefores of executive personnel decisions. Gridlock will increase by geometric proportions as minions scramble to locate, gather, and collate the requested information. Or, on the other hand, they can drag their feet and face charges of contempt of Congress.

White House Counsel Bob Bauer is savvy enough to have reportedly reached out to freelance lawyers, public affairs specialists, and other potential staffers to handle the increased traffic between Capitol Hill and the White House. Many in the White House are anxious to have a team in place, suited up, and ready to tangle with the legislative branch as the newly minted committee chairmen spend their recently earned political capital on notaries for all those legal filings.

When asked by politico.com to comment on the looming avalanche of paper, the White House had no official comment. One unnamed official of the Obama administration promised that, "We will of course support Congress in meeting its legitimate oversight responsibilities. It's our hope that the administration and Congress can work together to ensure that this important function is not abused to score political points or for other improper purposes." That response is precisely the sort of demonstration of hermeneutical contortions that led to the wholesale house cleaning that put Republicans in charge of the key committees in the first place.

The Clinton administration's response to a similar legislative onslaught in 1994 is reportedly serving as a model for the Obama team. As the story goes, "The plan, devised by then-deputy chief of staff Harold



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Ickes, called for personnel exclusively dedicated to handling investigations.” If the Clinton-Ickes playbook is adopted by the current administration then bureaucratic ciphers will serve as lead blockers clearing the way for the rest of the White House to carry on its end run around the checks and balances of the Constitution.

As many constitutionalists would expect, many of the newly elected Republicans and their leaders already serving in Congress have soft-pedaled their drive to hold the President’s feet to the fire. Representative Darrell Issa (R-Cal.) is quoted in the article as saying, “I want to prove the pundits wrong. My job is not to bring down the president. My job is to make the president a success.” Constitutionally speaking, it seems Mr. Issa needs a responsibility refresher course.

Expressing a similar mollifying sentiment, the likely chairman of the House Judiciary Committee, Representative Lamar Smith (R-Texas) is quoted in the Politico piece as expressing his desire above all to “working with the Justice Department to ensure that our laws are equally enforced, criminals are prosecuted and American communities are kept safe.” That sort of milquetoast approach may play in the courts of the Establishment (Republican and Democratic), but the people of the United States demand a more aggressive repairing of the walls separating the powers of the executive branch from legislating, especially in the areas of health care and immigration. Remember, neither of those areas lies within the boundaries of the limited and enumerated powers granted in the Constitution to the executive and legislative branches of government.

Predictably, there is one congressman who will not be dissuaded from restraining the executive branch with the fetters of the Constitution. Republican Representative Ron Paul (R-Texas) is expected to assume the chairmanship of the Financial Services Subcommittee on Domestic Monetary Policy. That news will likely keep President Obama awake at night. [Paul called the Federal Reserve board “dictators”](#) and has indicated in interviews that he has a holster full of subpoenas and he will not hesitate to fire them at the White House if it fails to satisfactorily respond to requests for information on the Fed or its dealings with the government.

The sort of donnybrook anticipated after the new congress is sworn in would probably not be particularly newsworthy were it not for all the promises of transparency in government made by candidate Obama in his campaign for the presidency in 2008. The President might be made to eat the words he wrote in a couple of [memos early last year](#). In one, President Obama proclaimed, “The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.” In another, the newly elected president promised that all the departments in the executive branch would “work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government.”

Broken promises and usurpation of powers are the coins of the realm in Washington, D.C. and all the new residents/representatives will likely have full pockets within days of settling into their new offices in the palaces of power on the Potomac. Flush with this new wealth, it is unlikely that any legitimate challenge to executive (or legislative) overreaching will be mounted by the people’s representatives.

Despite congressional reluctance to rock the boat of power once they are on board, the Constitution places the helm in the hands of the American people and the states whose limited concessions created the national government. If, as expected, the Republican majority in the House has a bark bigger than its bite, then the states and the people must chain it down with the full panoply of powers retained by



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them and protected by the Constitution.

Photo of Rep. Ron Paul: AP Images



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