

DIRECTING THE ATTORNEY GENERAL TO TRANSMIT TO THE HOUSE OF REPRESENTATIVES COPIES OF CERTAIN COMMUNICATIONS RELATING TO CERTAIN RECOMMENDATIONS REGARDING ADMINISTRATION APPOINTMENTS

JULY 15, 2010.—Referred to the House Calendar and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H. Res. 1455]

[Including Committee Cost Estimate]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 1455) directing the Attorney General to transmit to the House of Representatives copies of certain communications relating to certain recommendations regarding administration appointments, having considered the same, reports unfavorably thereon without amendment and recommends that the resolution not be agreed to.

CONTENTS

Purpose and Summary	Page 2
Background	2
Hearings	3
Committee Consideration	4
Committee Votes	4
Committee Oversight Findings	4
New Budget Authority and Tax Expenditures	5
Committee Cost Estimate	5
Performance Goals and Objectives	5
Constitutional Authority Statement	5
Advisory on Earmarks	5
Section-by-Section Analysis	5
Dissenting Views	6

PURPOSE AND SUMMARY

On June 17, 2010, Ranking Member Lamar Smith, along with Representative James Sensenbrenner, introduced H. Res. 1455. The resolution directs the Attorney General to transmit to the House of Representatives copies of any document, record, memo, correspondence, or other communication of the Department of Justice, including the Office of the Solicitor General, or any portion of any such communication, that refers or relates to:

- (1) any guidance or recommendations made by the Department since January 20, 2009, regarding discussions of administration appointments by White House staff, or persons acting on behalf of White House staff, with any candidate for public office in exchange for such candidate's withdrawal from any election; or
- (2) any inquiry, investigation or review by the Department, including appointment of a Special Counsel, regarding such discussions.

BACKGROUND

Under the rules and precedents of the House of Representatives, a resolution of inquiry is one of the methods that the House can use to obtain information from the Executive Branch.¹ It “is a simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch.”² The typical practice has been to use the verb “request” when asking for information from the President, and “direct” when addressing Executive department heads.³ Clause 7 of Rule XIII of the Rules of the House of Representatives provides that if the committee to which the resolution is referred does not act on it within 14 legislative days, a privileged motion to discharge the resolution from the committee is in order on the House floor.

For the reasons summarized below, the Committee believes that the resolution is unwarranted.

First, although there is no credible evidence that the Justice Department had any involvement in or knowledge of any alleged offers to Representative Sestak or Mr. Romanoff, the Department has already responded to multiple inquiries from Republican Members on this issue, in letters of May 21, June 14, and June 15, 2010. Attorney General Holder responded to questions on this subject before this Committee on May 13, 2010. The Department has made clear that any allegations of criminal conduct by public officials will be “reviewed carefully by career prosecutors and law enforcement agents,” who will take any “appropriate action.” In addition, the White House Counsel released a memo on May 28, 2010, describing what happened concerning Representative Sestak, and White House e-mail to Mr. Romanoff has also been publicly released.

¹ Christopher Davis, House Resolutions of Inquiry, CRS Report, November 25, 2008, at 1 (quoting U.S. Congress, House, Deschler's Precedents of the United States House of Representatives, H. Doc. 94-661, 94th Cong., 2nd sess., vol. 7, ch. 24, § 8.

² Id.

³ Id.

Second, as former high-ranking Bush Administration lawyers and career prosecutors agree, there is nothing illegal about offering a potential candidate for office an administration-appointed political position, even if partially motivated by a desire to avoid a divisive primary.

For example:

- Steven Bradbury, former Bush Assistant Attorney General in charge of the Office of Legal Counsel, acknowledged that there could be no proper criminal prosecution based on the conduct at issue here.⁴
- Former Bush White House ethics adviser Richard Painter said on May 28, 2010 that, in light of the information released by the White House, it is “even more apparent that this is a non-issue. No scandal. Time to move on.”⁵
- Former DOJ Public Integrity prosecutor Peter Zeidenberg, who once pursued charges against a top Hilary Clinton fundraiser, commented that “you’d be laughed out of the courtroom” for trying to prosecute for the alleged conduct concerning Rep. Sestak.⁶

Third, and particularly in light of the above, there is no proper basis for the Resolution’s specific document requests. There has been no indication that there was any “guidance or recommendation” from the Department to the White House on this matter. And the FBI has explained that, if there were any newly opened investigation by DOJ or the FBI as to any alleged improper conduct, it would contravene longstanding Department policy and jeopardize an investigation to either confirm or deny its existence.⁷ Providing all documents relating to any newly opened inquiry, as demanded in the second request, would be even more inappropriate and harmful to law enforcement.

The Department has also explained the long history of career officials handling such matters “professionally and independently, without the need to appoint a special counsel.”⁸ Former Bush Attorney General Michael Mukasey, who did appoint a special prosecutor in the U.S. Attorney matter, has agreed that there is no basis for one here.⁹ As the DOJ Inspector General found, the U.S. Attorney matter involved improper conduct concerning and by the Department of Justice, and improper political pressure on Federal prosecutors.¹⁰ At its core, that investigation was about ensuring the proper functioning of the criminal justice system. None of that is involved here.

HEARINGS

No hearings were held in the Committee on H. Res.1455.

⁴ See Is the Obama Brand “Irrevocably Shattered,” Politico (blog post), June 3, 2010

⁵ See Sargent, The Plum Line, Washintonpost.com, May 28, 2010

⁶ See Gerstein & Lee, WH: Clinton Spoke to Sestak on Post, Politico, May 28, 2010

⁷ Letter from Stephen Kelly, Assistant Director, Office of Congressional Affairs, FBI, to Rep. Lamar Smith, June 15, 2010

⁸ Letter from Assistant Attorney General Ron Weich to Rep. Darrell Issa, May 21, 2010.

⁹ See Reilly, “Mukasey: ‘Really a Stretch’ to Say Sestak Offer Was a Crime,” Main Justice, May 28, 2010.

¹⁰ See Department of Justice Office of Inspector General and Office of Professional Responsibility, An Investigation into the Removal of Nine U.S. Attorneys in 2006, September, 2008

COMMITTEE CONSIDERATION

On June 23, 2010, the Committee met in open session and ordered H. Res. 1455 adversely reported, without amendment, by a rollcall vote of 15 yeas to 12 nays, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall vote occurred during the Committee's consideration of H. Res. 1455:

H. Res. 1455 was ordered reported unfavorably by a vote of 15 to 12.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Conyers, Jr., Chairman	X		
Mr. Berman	X		
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt			
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Delahunt			
Mr. Cohen	X		
Mr. Johnson	X		
Mr. Pierluisi	X		
Mr. Quigley	X		
Ms. Chu	X		
Mr. Deutch	X		
Mr. Gutierrez			
Ms. Baldwin	X		
Mr. Gonzalez	X		
Mr. Weiner			
Mr. Schiff	X		
Ms. Sanchez	X		
Mr. Maffei			
Mr. Polis			
Mr. Smith, Ranking Member		X	
Mr. Sensenbrenner, Jr.			
Mr. Coble		X	
Mr. Gallegly		X	
Mr. Goodlatte		X	
Mr. Lungren			
Mr. Issa		X	
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert		X	
Mr. Jordan		X	
Mr. Poe			
Mr. Chaffetz			
Mr. Rooney		X	
Mr. Harper		X	
Total	15	12	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings

and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this resolution does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementing the resolution would not result in any significant costs. The Congressional Budget Office did not provide a cost estimate for the resolution.

PERFORMANCE GOALS AND OBJECTIVES

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives is inapplicable, because H. Res. 1455 does not authorize funding.

CONSTITUTIONAL AUTHORITY STATEMENT

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives is inapplicable, because H. Res. 1455 is not a bill or a joint resolution that may be enacted into law.

ADVISORY ON EARMARKS

Clause 9 of rule XXI of the Rules of the House of Representatives is inapplicable, because H. Res. 1455 is not a bill or a joint resolution.

SECTION-BY-SECTION ANALYSIS

H. Res. 1455 directs the Attorney General to transmit to the House of Representatives, not later than 14 days after the date of adoption, copies of any document, record, memo, correspondence, or other communication of the Department of Justice, including the Office of the Solicitor General, or any portion of any such communication, that refers or relates to:

- (1) any guidance or recommendations made by the Department since January 20, 2009, regarding discussions of administration appointments by White House staff, or persons acting on behalf of White House staff, with any candidate for public office in exchange for such candidate's withdrawal from any election; or
- (2) any inquiry, investigation or review by the Department, including appointment of a Special Counsel.

DISSENTING VIEWS

I. INTRODUCTION

H. Res. 1455 was introduced on June 17, 2010, by the Ranking Member of the House Committee on the Judiciary Lamar Smith and the Ranking Member of the Subcommittee on the Constitution, Civil Rights, and Civil Liberties F. James Sensenbrenner in response to confirmed reports that the White House made unethical and potentially illegal *quid pro quo* offers to Congressman Joe Sestak (D-PA) and Colorado's former Speaker of the House Andrew Romanoff (D). This Resolution of Inquiry directs the Department of Justice to transmit to the House of Representatives all documents and communications relating to any guidance the Department may have given the White House about these discussions.

In May and June 2010, the Obama Administration confirmed that it discussed with Rep. Sestak and Speaker Romanoff, separately, their possible appointment to high-ranking Federal positions if they would agree not to run in their respective States' Democratic primaries for Senate. These admissions raise the question of whether these discussions violated Federal criminal statutes that generally prohibit *quid pro quo* offers, and, if so, whether White House officials sought to determine the legality of their actions prior to their contact with Rep. Sestak and Mr. Romanoff. In addition, the passage of three months time between Rep. Sestak's first comments about his conversation with the White House and the White House's admission that it did indeed have a conversation with Rep. Sestak—and the behavior of key White House officials just before this official acknowledgment—have raised questions about the credibility of White House Counsel Robert Bauer's eventual conclusion that no wrongdoing has occurred. We strongly support H. Res. 1455 and, accordingly, oppose its being reported adversely to the House of Representatives.

II. BACKGROUND

A. White House's Discussions with Rep. Joe Sestak

The Obama Administration's offer of a Federal appointment to Rep. Sestak likely had its genesis months before Rep. Sestak was even a candidate in the Pennsylvania Democratic Senate primary when incumbent Senator Arlen Specter had left the Republican Party in April 2009 and joined the Democratic Party, in large part to avoid an anticipated Republican primary challenger in the 2010 election cycle.¹

As soon as Sen. Specter switched his party affiliation, President Obama and White House officials committed to investing their resources to ensuring Sen. Specter's successful candidacy for reelection in the Democratic primary and the November 2010 general election. According to an April 28, 2009, *New York Times* article, "White House officials said there was no realistic way to flat out promise Mr. Specter that he would not face a primary in the Democratic Party for the nomination, but noted that there is no Democrat out there in a position to resist the State's political machine

¹See Rep. Sestak's campaign ad "The Switch," in which Sen. Specter says, "My change in party will enable me to be re-elected." Available at <http://www.youtube.com/watch?v=x97DdZho11k> (last visited June 28, 2010).

and make a realistic challenge. More than that, White House officials said that they had assured Mr. Specter that he would have the full backing of Mr. Obama should he change parties. They also said that the president would happily campaign for Mr. Specter and raise money for him if that was necessary.”²

White House attempts to make good on its assurances to Sen. Specter became apparent when, on February 18, 2010, Rep. Sestak admitted to a Philadelphia talk show host that, during the summer of 2009, the Obama Administration had approached him to determine whether he was interested in accepting a Federal appointment in exchange for his agreement not to run against Sen. Specter in Pennsylvania’s Democratic Senate primary.³ Rep. Sestak added that the position he was offered was “high-ranking,” but declined to state what the position was.⁴ Commentators believed that the position was Secretary of the Navy, a hypothesis later denied by the White House. The bargain was obviously not accepted, as Rep. Sestak announced his candidacy for Senate on August 4, 2009, and ultimately won the Democratic primary on May 18, 2010.

B. The Administration’s Refusal to Provide Information Necessary to Address Concerns of Impropriety Surrounding These Incidents

In light of Rep. Sestak’s revelation, several lawmakers and legal scholars questioned whether the Administration’s discussions with Rep. Sestak may have constituted an illegal *quid pro quo* offer. At least three provisions of Federal criminal law—18 U.S.C. §§ 211, 595, and 600—and the Hatch Act, 5 U.S.C. § 7324, generally prohibit the offering or acceptance of anything of value in exchange for any political activity. These laws are designed to decrease corruption in the administration of government and protect the integrity of fair democratic elections. It is difficult, however, to form an opinion about whether a crime was committed because neither the Obama Administration nor Rep. Sestak has provided sufficient additional facts to form a coherent, credible understanding about their secret summer 2009 discussions.

Despite a number of inquiries, the Administration has rejected requests to provide additional details about these matters. Following Rep. Sestak’s February announcement, congressional Republicans asked numerous times for more information from the Obama Administration about the Sestak offer. On March 10, 2010, House Oversight and Government Reform Committee Ranking Member Darrell Issa wrote Counsel to the President (the “White House Counsel”) Robert Bauer seeking details about the Sestak offer and outlining the Federal criminal statutes that the White House may have violated.⁵ Ranking Member Issa received no written reply, but on March 16, in response to a reporter’s question, White House Press Secretary Robert Gibbs stated: “I’ve talked with several people in the White House. I’ve talked to people who have talked to others in the White House . . . I’m told that whatever

²Hulse, C. “Specter Switches Parties.” *The Caucus Blog* (New York Times Online) (internet), Apr. 28, 2009.

³See Fitzgerald, T. “Sestak Holds to Story of Job Offer.” *Philadelphia Inquirer* (internet), Feb. 20, 2010.

⁴*Id.*

⁵Letter from Rep. D. Issa to White House Counsel Robert Bauer dated Mar. 10, 2010. Letters referred to in these *Dissenting Views* are available at the websites of either the House Oversight and Government Reform Committee Republicans (<http://republicans.oversight.house.gov/>) or the House Judiciary Committee Republicans (<http://republicans.judiciary.house.gov/>), or both.

conversations have been had are not problematic. I think Congressman Sestak has discussed that this is—whatever happened is in the past and he is focused on the primary.”⁶ In other words, the White House said, “We have investigated ourselves and we don’t think we’ve done anything wrong.”

Having received no response to his March 10 letter, Ranking Member Issa sent a letter on March 22 to Mr. Bauer requesting a response to his prior inquiry and posing additional questions to the White House in light of Secretary Gibbs’s statement.⁷ When the time for responding to the March 22 letter passed with no response from Mr. Bauer, Ranking Member Issa sent a letter to Attorney General Eric Holder demanding that he “name a special prosecutor to conduct a formal investigation into whether a crime was committed when White house officials attempted to secure Rep. Joe Sestak’s withdrawal from Pennsylvania’s Democratic Primary for the United States Senate.”⁸ Ranking Member Issa suggested that an independent special prosecutor was necessary because the White House’s evaluation of its behavior would almost certainly be biased in favor of finding no wrongdoing. The Department of Justice responded on May 21 with a letter denying Ranking Member Issa’s special prosecutor request.⁹ On May 26, Senate Republicans also wrote Attorney General Holder to request the appointment of a special counsel to investigate the matter.¹⁰

On May 27, President Obama stated in response to a reporter’s question about the Sestak offer at a press conference that “[t]here will be an official response shortly on the Sestak matter. . . . I mean shortly—I don’t mean weeks or months. . . . I can assure the public that nothing improper took place.”¹¹ A reasonable interpretation of this statement is that the President knew additional facts about the Sestak offer at that time and easily could have answered the reporter’s questions but chose not to. The very next day—after over three months of silence from the White House on the Sestak matter—White House Counsel Bauer published a one-and-one-quarter page memorandum setting forth its version of the facts about the offer to Sestak.¹² Citing a “legitimate interest in avoiding a divisive primary fight,” the memorandum revealed that former President Bill Clinton, at the request of White House Chief of Staff Rahm Emanuel, discussed with Rep. Sestak his interest in service with the Administration in exchange for his withdrawal from the Pennsylvania Senate primary race. Not surprisingly, the White House memorandum concluded that any offers made by the White House were “fully consistent with the relevant law and ethical requirements.”

Not only was the White House’s exoneration of its own conduct neither surprising nor satisfactory, but the White House Counsel’s memo actually raised more questions about the Administration’s

⁶ See Lucas, F. “Democratic Senate Nominee Sestak Repeats Claim: White House Offered Him Job to Drop Out of Race Against Specter.” *CNS News* (internet), May 21, 2010.

⁷ Letter from Rep. D. Issa to White House Counsel Robert Bauer dated Mar. 22, 2010.

⁸ Letter from Rep. D. Issa to Attorney General Eric Holder dated Apr. 21, 2010.

⁹ See Bresnahan, J. & Jake Sherman. “DoJ Nixes Special Counsel Request.” *Politico* (internet), May 24, 2010.

¹⁰ Letter from Sen. C. Grassley *et al* to Attorney General Eric Holder dated May 26, 2010.

¹¹ See Itkowitz, C. “Obama Insists No Impropriety in Sestak Controversy.” *L.A. Times* (internet), May 27, 2010.

¹² Available at <http://www.whitehouse.gov/the-press-office/memorandum-white-house-counsel-regarding-review-discussions-relating-congressman-se>.

interference in the Pennsylvania primary than it answered. For example, it stated that “efforts”—plural—were made in June and July 2009 to determine whether Rep. Sestak would be interested in a Federal appointment if he were to drop out of the Senate primary race. Yet the memo details only one conversation between Rep. Sestak and former President Bill Clinton, whom the Administration asked to make the offer. What other efforts were made in the summer of 2009? Additionally, President Clinton’s involvement in the offer is quite strange and raises the obvious question of why a private individual who is not part of the Administration would be engaged in discussions about a potential Presidential appointment. Why wouldn’t Chief of Staff Rahm Emanuel or President Obama himself discuss the offer with Rep. Sestak? One possible answer may be that Administration officials tried to insulate themselves from potential criminal liability by using a remote conduit for the offer. The memo also stated that the Administration’s offer was to appoint Rep. Sestak to a position on a Presidential Advisory Board so that he could “retain his seat in the House.” Rep. Sestak has stated he believe the position was on the Presidential Intelligence Advisory Board.¹³ This story is simply not credible since according to the White House’s own rules for service the Board (as published on the White House website), Rep. Sestak is ineligible to serve on such a Board because as a member of the House he is a “Federal employee.”¹⁴

The implausibility of the White House Counsel’s memorandum’s version of the facts casts doubts on the conclusions of Mr. Bauer, who reports to the same officials he purported to investigate, and raises concerns that they were tainted by politics. At a minimum it puts the credibility of the memorandum’s conclusions in serious doubt. These inconsistencies, deficiencies, and self-contradictions in the White House’s explanations and the memorandum led Ranking Members Smith and Issa to write the FBI and request that it open an investigation into the Sestak matter.¹⁵ This request, however, met the same fate as Ranking Member Issa’s request for a special counsel. On June 15, the FBI responded with a letter that essentially dismissed the congressmen’s concerns but assured them that the FBI takes political corruption seriously.¹⁶

Then on June 2, 2010, Colorado’s former House Speaker Andrew Romanoff disclosed that he, too, discussed with the White House the possibility of accepting a Federal appointment in exchange for dropping out of the Democratic primary.¹⁷ Specifically, Mr. Romanoff explained that White House Deputy Chief of Staff Jim Messina raised at least three Federal positions for which Romanoff might be considered if he were to withdraw from the Democratic primary in which incumbent Senator Michael Bennet was also a candidate. The next day, the White House confirmed this discussion took

¹³ See Silverlieb, A. “White House Admits Effort to Keep Sestak Out of Senate Race.” *CNN* (internet), May 28, 2010 (“One of the unpaid positions that the White House suggested offering Sestak was an appointment to the president’s Intelligence Advisory Board, which gives the president independent oversight and advice.”)

¹⁴ See Board’s eligibility rules, available at <http://www.whitehouse.gov/administration/eop/piab/about> (“The Board consists of not more than 16 members appointed by the President from among individuals who are not employed by the Federal Government.”)

¹⁵ Letter from Ranking Member L. Smith and Rep. D. Issa to FBI Director Robert Mueller dated May 28, 2010.

¹⁶ Letter from Steven D. Kelly, Assistant Director of FBI’s Office of Congressional Affairs, to Ranking Member L. Smith dated June 15, 2010.

¹⁷ “Romanoff Admits White House Job Discussions.” *CBS 4 Denver* (internet), June 2, 2010.

place.¹⁸ The Sestak matter was obviously not an isolated incident: the Romanoff revelation revealed that the Obama Administration engaged in a pattern of behavior to influence and interfere in State primary elections.

The White House now having two backroom deals to explain, Ranking Members Smith and Issa and Mr. Sensenbrenner sent a letter on June 2, 2010, to White House Counsel Bauer asking for production of all documents relating to the Sestak and Romanoff matters.¹⁹ Additionally, on June 4, 2010, Ranking Member Smith sent a letter to House Judiciary Committee Chairman John Conyers requesting that the full Judiciary Committee hold a hearing to investigate the Sestak and Romanoff matters.²⁰ And on June 8, 2010, Ranking Member Smith and Mr. Sensenbrenner sent a letter to the Department of Justice asking what role it may have played in advising the White House regarding the Sestak and Romanoff episodes and asking for documents relating to the same.²¹ When all of these requests were rejected, Ranking Member Smith and Mr. Sensenbrenner introduced the instant Resolution of Inquiry.

III. WHY THE RESOLUTION OF INQUIRY IS NECESSARY

The Administration's failure to provide the details sufficient to address concerns raised about these conversations has only fed lawmakers' and the public's concerns that some impropriety has occurred in this matter. The Administration's handling of the Sestak and Romanoff matters is ironic in light of President Obama's 2008 presidential campaign promise to administer the most open government in American history. In fact, the day after he was inaugurated, he issued a memorandum to the heads of executive agencies ordering them to implement policies to make government more transparent and user-friendly. However, in the four months since the Sestak matter became public, the White House has issued only its one-and-one-quarter page memorandum on the subject, which actually raises more questions than it answers.

The ROI will help Congress fulfill its constitutional responsibility to conduct oversight. This Committee has considered several resolutions of inquiry directed at DOJ this Congress, including resolutions seeking information about DOJ's sudden decision to halt a voter intimidation case against the New Black Panther Party, DOJ's treatment of terrorists held at Guantánamo Bay, and DOJ's policy on giving Miranda warnings to enemies captured on the battlefield. Such resolutions were necessary because the Administration refuses to provide any documents voluntarily. Similarly, this ROI is an essential tool for Congress to have the power to perform its constitutional duty to check and balance the power of the Executive. As the Ranking Member stated in his June 4, 2010, letter to Chairman Conyers, "Admissions that the White House intentionally sought to manipulate the outcome of Democratic Senate primaries strike at the heart of our democracy. The Committee has

¹⁸ Burns, A. "W.H. Admits Effort to Avoid Primary." *Politico 44* (internet), June 3, 2010.

¹⁹ Letter from Ranking Member L. Smith *et al* to White House Counsel Robert Bauer dated June 2, 2010.

²⁰ Letter from Ranking Member L. Smith to Chairman J. Conyers dated June 4, 2010.

²¹ Letter from Ranking Member L. Smith and Mr. Sensenbrenner to Attorney General Eric Holder dated June 8, 2010.

a duty to the American people to investigation allegations of criminal conduct at the White House.”²²

Even if the Administration’s conduct regarding the Sestak and Romanoff offers was not criminal or unethical, Americans demand a higher standard of conduct from elected officials. A June 11 Fox News Opinion Dynamics poll shows that a majority of Americans think the Administration engaged in criminal or unethical conduct. Americans are entitled to believe their elected officials will hold themselves to a higher standard of conduct. H. Res. 1455 is necessary to uncover what conduct actually occurred so that Americans can form their own judgments about their elected leaders.

Americans also want to know why the White House held secret talks with former President Clinton and Rep. Sestak’s brother in the days before it released the May 28 memorandum. Days before the White House Counsel’s memorandum was released, President Obama met with former President Clinton (whom the Administration asked to make the offer to Rep. Sestak) and Rep. Sestak’s brother (who is also his campaign lawyer). The Administration has not explained why, and many Americans wonder whether the Administration tried to ensure all parties with knowledge of the offer would tell the same story that the White House was about to release in its memorandum. Americans are also curious whether the Department of Justice advised the White House with respect to these conversations, and, if so, what that advice was.

IV. CONCLUSION

We strongly support adoption of H. Res. 1455 for a variety of reasons that fall broadly into two main categories. First, because all meaningful attempts to conduct oversight heretofore have been unsuccessful, the documents that the Department of Justice would produce pursuant to H. Res. 1455, if they exist, are critical to determine the facts surrounding the job offers to Rep. Sestak and Colorado House Speaker Romanoff and whether Administration officials violated Federal criminal law or ethical standards. If the DOJ was not consulted regarding the legality of these offers, Americans are left to conclude that Administration officials had a callous disregard of the possible legal and ethical consequences of their pursuit of political gain. Second, the disclosure required by H. Res. 1455 is entirely consistent with President Obama’s campaign pledge of making government more transparent. Transparency is particularly necessary when individuals in positions of power attempt to interfere in or influence the very basis of our democratic system—Federal elections. H. Res. 1455 reaffirms Congress’s unique role in conducting oversight of the Executive Branch and preserving Americans’ ability to hold the President accountable for his decisions.

LAMAR SMITH.
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HOWARD COBLE.
ELTON GALLEGLY.
BOB GOODLATTE.
DANIEL E. LUNGREN.
DARRELL E. ISSA.

²² See note 20, *supra*.

J. RANDY FORBES.
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JASON CHAFFETZ.
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GREGG HARPER.

