

# ROVE AND THE (ESCAPE) HATCH ACT

✘ When Michael Mukasey announced in 2008 no one would be charged for politicizing DOJ, I had this to say.

Understand: Mukasey has turned into a terrible shill for the Administration. But it has been clear for over a year that the Administration would escape criminal charges for having committed massive violations of the Hatch Act. **But that has more to do with the Hatch Act than with Michael Mukasey.** Even a Democratic AG would have a hard time charging this stuff, given the stated penalties for civil Hatch Act violations.

The Hatch Act gives citizens no real recourse for the politicization of our government. And the loyal Bushies know this. After all, by all appearances, they're still committing Hatch Act violations.

And when Karl Rove resigned in 2007, I noted that it would make the ongoing Office of Special Counsel investigation into Hatch Act violations meaningless. And for good measure, here's where I predicted that investigation would last into the next decade.

Welcome to the next decade, when we finally get the report telling us what we knew back in 2007 when this investigation started, that Rove politicized the government.

Note that footnote 3 of the report says what these reports almost always say (the one exception was Lurita Doan), that since everyone who violated the Hatch Act has moved on now, they cannot be punished for doing so.

Because all of the officials who were

involved in Hatch Act violations described in this report are no longer employed by the federal government, OSC cannot bring disciplinary actions against these employees.

As I said last decade, no one will be held accountable for the abuses described in the report. So forgive me for being underwhelmed by the release of the report that does no more than catalog what we already knew.

The report shows that under Bush, agency heads required agency political appointees to attend briefings at which they'd get an overview (40-60% of the content) of the Republican prospects for the next election. It described how these briefings explained the importance of the Republican 72-hour plan to get out turnout. And it described how at least some agencies tracked the participation of employees in GOTV activities.

One Special Assistant to the Chief of Staff at the Peace Corps testified that she maintained a spreadsheet showing the agency's political appointees and when and where they were deploying to be campaign volunteers. The witness explained that OPA wanted to know the level of participation by political appointees as a group, and that she believed OPA expected all appointees to volunteer. She also understood that supervisors were expected to permit political appointees to take leave so they could "go off and do 72-hour campaigns."

The most interesting finding of the report—though again, we knew this—is that the Office of Public Affairs became a mere extension of the RNC leading up to the 2006 election.

Specifically, OSC's investigation revealed that OPA was essentially an

extension of the RNC in the White House.

Thus, OPA:

- *Worked with the RNC to develop a “target list” consisting of those Republican candidates involved in close races.*
- *Encouraged high-level agency political appointees to attend events with targeted Republican candidates in order to attract positive media attention to their campaigns, a practice called “asset deployment.”*
- *Utilized the services of several RNC Desk Coordinators – who worked inside the White House – to help coordinate high-level political appointees’ travel to both political and official events with Republican candidates.*
- *Kept track of Republican candidates’ fundraising efforts as well as high-level agency political appointees’ attendance*

*at events with targeted candidates.*

- *Encouraged political appointees, on behalf of the RNC, to participate in 72-hour deployment efforts.*

As explained below, OSC has concluded that all of these activities constituted “political activity” because they were directed at the electoral success of Republican candidates and the Republican Party as a whole. These activities took place in federal buildings and during normal business hours in violation of the Hatch Act. And although the OPA Director and Deputy Director, at whose direction these activities occurred, were exempt from the Hatch Act’s prohibition against engaging in political activity while on duty or in a federal workplace, the regulations require that the costs associated with the political activity of exempt employees be reimbursed to the U.S. Treasury when the activity is more than incidental. Here, the entire OPA staff was enlisted in pursuit of Republican success at the polls and many OPA employees believed that effort was part of their official job duties. Based on the extent of the activities described below, OSC concludes that the political activities of OPA employees were not incidental to their official functions, and **thus U.S. Treasury funds were unlawfully used to finance efforts to pursue Republican victories at the polls in 2006.**[my emphasis]

In short, taxpayers paid for a big chunk of the Republican 2006 campaign.

Hey! That was the campaign where we took back

both houses and Rove's math was proven to be faulty, right? Suckers!!

Other than that, the report is mostly interesting for a description of how the Republicans ran their campaign in 2006.

One of the by far most interesting details associated with this report came before it was released, four days ago, when Obama announced he was shutting the entire Office of Political Affairs and moving it to Chicago.

President Obama will close the office of political affairs at the White House in preparation for the establishment of his re-election headquarters, which will open its doors in Chicago by late March to concentrate on building a national fund-raising and grass-roots operation to rival his first campaign, aides said.

**The president has signed off on the plan to set up his campaign headquarters away from Washington, a first for a modern-day presidential re-election campaign.**

To avoid turf battles, chaotic communications and duplicated efforts, aides said, a significant realignment is under way in the West Wing, with the duties of the political office being taken up by the Democratic National Committee. [my emphasis]

Now, I criticized him for deciding that getting re-elected matters more at this point than governance (and I still wish he seemed more serious about solving the job crisis in this country). But assuming he made this move with some forewarning of the content of the OSC report, he deserves some credit for eliminating the OPA office altogether. While Rove's politicization of the government was particularly egregious, I think having an OPA right there in the White House fosters this kind of abuse. And, frankly, had Obama not done this, I can assure you that Darrell Issa, now in the

same role as Henry Waxman was when he first initiated this investigation, would be subpoenaing every PowerPoint the Obama Administration used in agency presentations in the last two years.