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*The Role of Analysis
On The
17 Most Political Acres on the Face of the Earth*

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[Note: Dr. Arbuckle is currently Clinical Professor of Public Affairs at the University of Texas at Dallas. He served in OIRA for twenty-five years, from its inception in 1981 through his retirement from federal service in 2006. For the ten years between 1996 and 2006, he was the OIRA Deputy Administrator, the career civil servant managing the office. Over the course of his tenure as Deputy, he served for nearly two years as Acting Administrator.]

I

Bob Damus was an OMB career veteran who served as general counsel during the George H.W. Bush and Clinton

Administrations and who died unexpected in November 2000. He frequently faced OMB career staff indignant because their carefully reasoned analytic recommendations had not only been rejected by OMB or WH policy makers, but had apparently been completely ignored. In such situations, Bob was fond of advising these young Type A, left brain analysts that they needed to remember that they were working, as he put it: “on the 17 most political acres on the face of the earth.” He did not need to add that this was not necessary friendly left brain territory.

This conference will be devoted largely to a wide variety of technical issues associated with Risk Analysis and the analytic work required by Executive Order 12866 and overseen by OIRA. I want to set the stage for this discussion by commenting on the White House environment within which risk and benefit-cost analysis and oversight take place. The President and his staff are faced day after day with the extraordinary pressures of congressional, electoral, and interest group demands – that is, politics. One might ask in such a context, do these decision

makers care at all about risk, or benefit-cost, or almost any other kind of analysis?

The answer is, yes, they do, and care deeply. But the conduct and use of analysis is always at risk of being overwhelmed by the power of politics. I ask you to accept my proposition that, in a battle between analysis and politics, politics will win handily (a point made by my follow panelist Stuart Shapiro in an article several years ago). What I want to offer today are a few comments about the balance between respect for analysis and the power of politics in the White House.

II

That governmental benefit cost analysis or risk assessment is done in a highly political atmosphere should come as a surprise to no one. But a word of support for this state of affairs is in order. This is not a bad thing. If you are planning to remove politics from risk or economic analysis, you will first have to get rid of the Constitution, which clearly establishes who gets to decide national

policy issues. They are those 537 individuals elected by all of us - 535 on the Hill, 1 President and 1 Vice-President. You may have noticed that the Constitution avoids any discussion of criteria upon which decisions are to be made, other than for the common good. It does not mention the word "analysis." Those of you who daily scan your pocket Constitutions will search in vain for the phrase, "risk assessment" or "maximize net benefits." The policy makers are free to use any method they wish to decide policy matters.

The point to make here is that risk assessment benefit cost analysis, like any other decision making tool, must be useful to these political decision makers. They have been accused of many bad things, including larceny, lying, venality, adultery, ignorance, and, worst of all for our purposes, the politicization of science and analysis. If what this latter sin means is that political decision makers are changing the analysts' numbers or willfully misrepresenting analysts' conclusions, then this is indeed bad news. If, however, it means that these decision makers are drawing their own conclusions from a risk assessment or benefit

cost analysis, or are ignoring that analysis entirely, this is, while perhaps not ideal, their prerogative and the way our government is meant to work.

The good news for all of the non-elected individuals in this room is that analysis is important in national policy decision making. The historical roots for this contemporary fact of governance probably lie in the New Deal and its belief that experts and expert agencies could, with the application of good analysis, determine and implement policies that maximized the public good. I doubt that anyone believes this any more; nevertheless, everyone does realize that modern governance requires expert analysts - chemists, physicists, biologists, doctors, statisticians, economists, budgeters, epidemiologists, attorneys, geologists, agricultural experts, and even risk assessors. These and many others help develop and implement policy by using their expertise to provide suitable analysis for policy makers.

The relationship between analysis and politics is an uneasy one. Political imperatives always threaten the application of risk or benefit cost analysis. However, a number of structural characteristics of the White House help protect analysis and ensure that it is, at least on good days, politics' partner.

For example, the White House is structured to reflect the wide variety of presidential functions. Offices such Political Affairs, Communications, Legislative Affairs, and liaison offices with various constituent communities are highly political. Others are more analytic: the Council of Economic Advisors, the Office of Science and Technology Policy, the Domestic and Economic Policy Councils, and of course, OMB. OMB is different from the other analytic offices and staff because it is an institution which, unlike all of them, is made up mostly of career civil servant analysts who serve successive Presidents and their political appointees. This cadre of White House staff functions solely as analysts and even in the highly political atmosphere of the

Executive Office are, by inclination, EOP culture, and law, separated from the President's political functions and needs.

IV

Turning to OIRA: OIRA serves the President by performing two equally important yet potentially contradictory functions.

OIRA is the proponent of good analysis and the keeper of analytic integrity throughout the Executive Branch and across the EOP as well. OIRA is also, like every other office and individual in the EOP, an agent of the President. How it accommodates these two roles provides a window to the success of analysis in a political world.

First, President's and their top staff want and depend on good analysis. All Presidents have many staff, including the Administrator of OIRA, who are excellent analysts themselves, and who ably represent the analytic point of view in debates with other WH and agency officials. OIRA has been fortunate since its inception to have had Administrators who were and are

outstanding analysts: Sally Katzen, John Graham, Susan Dudley, and, hopefully, Cass Sunstein, come to mind. The analytic acumen of OIRA's Administrators has an important consequence for the daily work of the OIRA staff. Their skill tends to keep substantive debates in the White House between a politically driven view point and an analytic one away from the day to day analytic work of the OIRA career staff. Thus, OIRA has largely been left to perform its analytic and oversight work with agencies free from day to day injections of politics.

A related point here is that senior OMB political appointees are acutely aware that their job includes balancing analytic conclusions with political judgment. They can be quite forthright with this aspect of their jobs. A Clinton Administration appointee once invited us into his office to discuss a problematic policy issue. He greeted us by saying, "Now, tell me what the analysis shows what we should do." Then he grinned and added, "before I sell you down the drain."

Second, the institutional role of OIRA and OMB is to advocate restraint, particularly when it comes to the government spending public money, or requiring the public to spend its money for public purposes. OIRA tends to believe that regulations can always provide more benefit at less cost. This institutional role of OMB provides a home for OIRA's voice in White Houses of both parties, which are faced daily with a cacophony of pleading, petulant, and persistent voices arguing for political action benefiting their interests (which almost all believe equates with the general public good).

Third, there is little daily "interference" with OIRA's work by political demands for another good reason. OIRA's career managers, particularly the Deputy and branch chiefs, spend extensive time and energy making sure that White House officials know what OIRA is doing. This included, in my ten years as Deputy, certain routine communications, such as meetings. But it also included activities as simple but critical as, at just the right time, walking down the black and white checkered halls of the

Eisenhower Executive Office Building into someone's office to let them know what OIRA was doing and why, and that they might be receiving a call from an unhappy agency official.

We also made sure that White House officials whose portfolios included certain policy issues were not only informed of, but invited into, OIRA's regulatory review. For example, important EPA regulations were nearly always of interest to the Council of Environmental Quality, someone on the Domestic Policy Council or National Economic Council, often an economist from the Council of Economic Advisors, perhaps a technical person from the Office of Science and Technology Policy, and frequently someone from either OMB or White House Counsel's office. From John Morrall and Art Fraas's point of view as OIRA Branch Chiefs, this coordination with White House staff could be excessively time consuming, frustrating, and tiresome. But it served several extremely valuable purposes. It meant that OIRA was supported by other EOP analytic offices. It also meant that OIRA was never acting as an isolated, independent body, as it

often appeared from the agency or outside point of view. To the contrary, it was behaving in a way that was both known to and supported by the White House. In this manner OIRA served as an agent of the President by serving an analytic need of the Presidency.

Fourth and finally, the perpetual potential that politics will overwhelm analysis is mitigated by OIRA veterans' uncommon good sense and artful ability to earn the trust of White House policy makers. The trust of OIRA and OMB career staff and White House political officials is without a doubt the single most essential commodity necessary to OIRA's ability to champion analysis in a political environment. The maintenance of this trust was at the heart of my job as Deputy. This trust was established by the constant communication that I described above, but also by another essential characteristic - OIRA and OMB were, and are, leak-free zones. Leaking information to outside parties, one of the policy influencing tactics used throughout the federal policy making establishment, was the one unpardonable sin at OIRA and

MB. The ability of OMB and OIRA career staff to provide useful analytic information to White House staff depended on the political appointees' belief that disagreements and debates about policy would not be carried outside the boundaries of EOP. In this respect, the utility of analysis, no matter how expert and sophisticated, depended on a specific, disciplined behavior by the analysts regarding the audience for their analysis. The political appointees knew that our championing of analysis, even when it created political problems (as it often did), was not being done as part of an OIRA agenda of its own. Instead, it was understood to be part of OIRA's dual role of analytic advocate and agent of the President.

In conclusion and to summarize, high quality benefit cost analysis and risk assessment will be successful to the degree that they can be understood and used by political policy makers. And OIRA will be successful in expanding the use of these important forms of analysis to the extent it maintains the trust of White

House officials; to the extent it keep its interactions with those officials inside the halls of the EOP; and to the extent that current and successive OIRA veterans are as sagacious and clever as their heroic predecessors.