

Condoleezza Rice in 2007, Obama passed a note to a Senate aide saying "Shoot. Me. Now" (Wallace-Wells 2008).

10. This list includes only legislation on which the president took a public position and/or signed a measure, according to *CQ Weekly's* regular Bills to Watch listings up to December 12, 2010.

11. The House is not required to act on the Strategic Arms Reduction Treaty.

12. *CQ's* more general measure, which does not differentiate the political significance of different measures, gave Obama an "historic" 96.7 percent for 2009, beating Lyndon Johnson's success rate by 3.6 percent, and 85.8 percent in 2010. However, in 2009 Obama took a position on fewer House and Senate votes than most of his predecessors. Obama's levels of support from his own party (91 percent for both years in the Senate and 91 and 89 percent among House Democrats) also rank well above those of other presidents with congressional majorities of their own party: Eisenhower (71 percent/73 percent), LBJ (74 percent/61 percent), Clinton (77 percent/87 percent), and Bush 2 (86 percent/94 percent). (The first figure in each set is for the House, the second for the Senate.) *CQ* reports that in 2010, House Democrats were only slightly less supportive (83 percent); House Republican support actually increased on these votes from 26 to 30 percent. (Cranford 2010a: 2327)

13. Reagan, Bush 1 and Bush 2 also achieved 100 percent win rates on the most significant legislation but, respectively, with only 2, 1, and 2 measures in this category.

14. A Gallup Poll taken in mid-January 2009 showed that 62 percent of respondents wanted the Congress to block Obama's request to release the remaining funds until more details were provided about how the funds would be spent. The rest of the sample was split between those wanting the funds to be released immediately and those who did not want any funds released.

15. In *Massachusetts et al. vs. EPA et al.*, 549 US 497 (2007), the Supreme Court had declared constitutional the EPA's statutory authority to regulate greenhouse gases as pollutants.

16. For example, in return for a lobbying/ad campaign ceasefire, Kerry, Lieberman, and Graham included a provision in their bill that would allow the oil companies (responsible for something like one third of all US carbon emissions) to pay a "linked fee" based on how much gasoline they sold linked to the average price of carbon over the previous months, instead of having to buy government permissions or allowances to cover all emissions by vehicles on the carbon market, as provided for in the House bill (Samuelsohn 2010).

17. On a third Obama priority, financial regulatory reform (on which lack of space precludes discussion), the Treasury Department rather than the White House took the lead. Initially, the Treasury provided Congress with a plan that was too vague, incoherent, and unsupported (Cho and Montgomery 2009, A1) but, subsequently, submitted a more detailed legislative blueprint, which the Congress substantially endorsed when it enacted the Dodd-Frank Act (Cho 2010, A1).

18. Throughout the decade, Gallup Polls show a plurality of Americans consistently favored maintaining the current private system, although support fluctuated. In November 2008, Gallup reported that 49 percent favored the current system, while 41 percent favored "a new government run health care system." While almost 9 out of 10 Republicans and Republican leaners favor maintaining the current system, support among Democrats and Democratic leaners for a government-run system is less monolithic; more than a third of Democrats would favor maintaining the current system (Newport 2009c).

19. Evidently, over the summer, Emanuel had instructed White House staff to prepare an 800-page secret health care bill covering every contingency with a view to offering it directly on the Senate floor should Baucus's bill not be voted out of committee. "If it failed there, they'd come up with another compromise. If that deal didn't work, they'd move to [using the budget] reconciliation [procedure]," which prevented filibusters (Alter 2010, 266).

## CHAPTER 8

# Obama's Battle with Lobbyists

*James A. Thurber*

Widespread scandal and public opinion helped to fuel Senator Barack Obama's nonstop attack on the role of lobbyists in American politics, starting as the Democrat's ethics and lobbying reform leader in the US Senate in 2006, continuing in his 2008 election campaign, and repeated in 2009 and 2010 with his sustained attempts as president to change the culture of lobbying and influence in Washington. Lobbying is a profession that has been deeply sullied in the last five years by the illegal actions and conviction of Jack Abramoff, the criminal convictions of Representatives "Duke" Cunningham (bribes for earmarks) and Bob Ney (accepting illegal gifts from lobbyists), the resignation and conviction of Representative Tom DeLay (illegal use of corporate campaign funds from lobbyists), the conviction (later overturned) of Senator Ted Stevens (illegal gifts from lobbyists), as well as the criminal conviction of 21 lobbyists, former congressional aides, and executive branch officials (illegal gifts to members of Congress). More recently in 2009 and 2010, Congressman Charles Rangel (D-NY) was asked to step down as chair of the powerful House Ways and Means Committee, and after a lengthy investigation and trial before the House Ethics Committee, he was convicted on 11 counts related to breaking House Ethics gift ban and travel rules associated with lobbyists. In 2009, the House Ethics Committee investigated Representatives Todd Tiahrt (R-KS), Peter Visclosky (D-ID), John Murtha (D-PA), Norm Dicks (D-WA), and Jim Moran (D-VA), all on the House Appropriations Committee, for the reciprocal exchange of campaign contributions for earmarks from corporations through PMA, a now

defunct lobbying firm owed by a former House Appropriations subcommittee committee staff director (Milbank 2010b).

Are lobbyists distorting what is in the public interest and undermining public trust in government and ultimately the integrity of American democracy, as argued by Senator/candidate/President Obama? Has President Obama changed the murky world of the revolving door of lobbyists/advocates in campaigns and government? Has he changed the way Washington works? These are not new questions for Washington; they echo James Madison's lament in *Federalist Paper Number 10* (1962, 79).

Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence, of known facts will not permit us to deny that they are in some degree true.

President Obama has often prominently paraphrased James Madison's argument in *Federalist No. 10* that factions or narrow interests undermine the rights of other citizens and that it is the duty of government to regulate the factions so that they do not do harm to others (Madison 1962, 79). Obama also used Madisonian arguments when he stated that factions (interest groups and lobbyists) are "adverse to the rights of other citizens or the permanent and aggregate interests of the community" (Madison 1962, 83).

The overwhelming public perception of lobbyists, whether convicted or investigated for malfeasance, is that they are bad, a corrupting influence on government and the way Washington works. This negative public perception of lobbyists was a major cause of Obama's attacks on them. Fifty-eight percent of the respondents in the 2008 Cooperative Congressional Election Study (CCES) national poll felt Obama would be very likely or somewhat likely to change the way Washington works. (See the appendix for CCES public opinion survey results.) After the economic crisis, government corruption was the second-most important issue mentioned by voters in national surveys in 2008 and the most important issue among the electorate in the midterm election of 2006. (See the appendix for 2008 CCPS/CCES public opinion about Obama and lobbying reform.) Anger against Washington politics continued to be a major issue in the 2010 midterm elections. The irate public had high expectations for the president to change politics by reforming lobbying and the "political influence culture" that permeates Washington (Jacobson 2011). President Obama used that strong public anger with Washington in his attempts to garner support for his policies in Congress.

This chapter explores the causes, characteristics, and consequences of President Obama's attacks on lobbyists and his attempt to change the way Washington works. It concludes with a discussion of the barriers President Obama has faced in reforming pluralist democracy in Washington and assesses his successes and failures during his first two years in office.

## OBAMA'S LOBBYING AND ETHICS REFORMS

Lobbying and ethics reform started for President Obama when he was a senator. With Obama's leadership and the bipartisan help of Senator McCain, discussion of ethics and lobbying reform in Congress in 2006 resulted in the passage of the most significant reform since 1995, the Honest Leadership and Open Government Act (HLOGA) of 2007. HLOGA attempts to slow or stop the "revolving door" between public service and lobbying, to curb excesses in privately funded travel and gifts, and to enhance disclosure and transparency of lobbying activities. The 1995 Lobbying Disclosure Act (LDA) and HLOGA define lobbying and lobbyists and require those who register under the acts to disclose the identities of people attempting to influence government, the subject matters of their attempts, and the amounts of money they spend to accomplish their goals on a quarterly basis.<sup>1</sup> Senator Obama's goal in HLOGA was supposed to make it easier for the public to know about campaign contributions from lobbyists to lawmakers and to make it easier for the public to be aware of lobbyist advocacy topics, targets, and expenditures. HLOGA prohibits senior Senate staff and Senate officers from lobbying contacts with the entire Senate for two years (changing the one year "cooling off" rule), instead of just their former employing office. The act also continues to prohibit senior House staff from lobbying their former office or committee for one year after they leave House employment.

Obama continued his pointed criticism of lobbyist power brokers and the role of big money in Washington in his 2008 election campaign. He began by banning federal registered lobbyists from his campaign organization, but ultimately made many exceptions to his rule.<sup>2</sup> He then made this promise to the public:

I intend to tell the corporate lobbyists that their days of setting the agenda in Washington are over, that they had not funded my campaigns, and from my first day as president, I will launch the most sweeping ethics reform in U.S. history. We will make government more open, more accountable and more responsive to the problems of the American people (Thurber 2010).

Obama also addressed the destructive power of lobbyists in a town hall meeting in Bristol, Virginia: "We are going to change how Washington works. They will not run our party. They will not run our White House. They will not drown out the views of the American people (Applewood 2008; Thurber 2010). He continued his tough attack on lobbyists and special interest money on August 8, 2008: "I suffer from the same original sin of all politicians, which is we've got to raise money. But my argument has been and will continue to be that the disproportionate influence of lobbyists and special interest is a problem in Washington and in state capitals" (Obama 2007).

Rhetoric, executive orders, regulations, and law aside, what has been the reality of the congressional and White House "revolving door" in the first two years of the Obama administration? Has President Obama achieved his promise to restrict the role of lobbyists and change the culture of big money fund-raising. Once elected, Obama restricted participation by federal registered lobbyists on

his transition team and later in his administration. He instituted a strong code of ethics for all executive branch appointees, implemented a tough gift ban, ordered more transparency rules for decision making, and on his first day in office he issued an executive order restricting the “revolving door” of lobbyists both in and out of government (Obama 2009a). He also banned direct lobbying for funds and tax breaks from the Troubled Assets Relief Program (TARP) (Public Law 110-343) and the 2009 American Recovery and Reinvestment Act of 2009 (ARRA) economic stimulus package bill.

After taking office, Obama employed his executive power to restrict lobbyists from service in government and limit their access to policy making in the executive branch. Immediately after he was sworn into office, he also directed his departments and agencies to avoid even the appearance of conflicts of interest (Executive Order No. 13490). The president centralized White House control over government ethics and lobbying by hiring lobbying reformer Norm Eisen to head this topic in the transition and later as Special Counsel to the President for Ethics and Government (the Ethics czar).

The president has also used attacks on lobbyists as a way to build support for his policy agenda, especially in the battle over health care and financial regulation. During his first two years office, President Obama attacked lobbyists dozens of times for hindering or even stopping (e.g., cap-and-trade legislation) his policy agenda, stating that they undermined democracy and the public interest. However, he used them, when needed, to help push through historic reforms. He used criticisms about the role of lobbyists and money in politics to his advantage in building support for health care reform and financial regulation reforms, but was later criticized for “selling out” to the special interests when compromises were necessary and when their support was essential for passage of these historic acts. For example, in a speech on the need for health care reform on March 19, 2010, he attacked health insurance lobbyists for stopping what he felt was in the public interest:

At the heart of this debate is the question of whether we’re going to accept a system that works better for the insurance companies than it does for the American people because if this vote fails, the insurance industry will continue to run amok. They will continue to deny people coverage. They will continue to deny people care. They will continue to jack up premiums 40 or 50 or 60 percent as they have in the last few weeks without any accountability whatsoever. They know this. And that’s why their lobbyists are stalking the halls of Congress as we speak, and pouring millions of dollars into negative ads. And that’s why they are doing everything they can to kill this bill (Obama 2010b).

The president reiterated his criticisms of lobbyists in his State of the Union message on January 27, 2010, and pledged again to lead the effort to change the way they work in Washington.

It’s time to require lobbyists to disclose each contact they make on behalf of a client with my administration or with Congress. It’s time to put strict limits on the contributions that lobbyists give to candidates for federal office. Each time

lobbyists game the system or politicians tear each other down instead of lifting this country up, we lose faith. The more those TV pundits reduce serious debates to silly arguments, big issues into sound bites, our citizens turn away. No wonder there’s so much cynicism (Obama 2010c).

Obama has continued his passion to reform lobbying and the way Washington works by instituting more regulations to reduce conflicts of interest and to increase transparency about the lobbying industry, by issuing two historic Executive Orders and several presidential memos on lobbying and ethics, as listed in Table 8-1. In general, the president has tried to change the political culture of Washington by attempting to increase transparency and public participation in decision making and by stopping conflicts of interest in his administration.

President Obama is fighting an integral part of pluralist representative democracy in the United States. Lobbyists, interest groups, and advocates of all kinds are increasingly influential and controversial both in American elections and governing, impacting the quality of campaigns and elections and later governing and policy making. Lobbyists influence the way issues and problems are framed and ultimately the way policy is made in Washington. They promote candidates and policies, raise money, sway voters, and continue their influence through major lobbying campaigns after an election. They provide services such as general strategic advice, issue-advocacy advertising, and polling; offer advice about media strategy; organize get-out-the-vote (GOTV) strategies; and provide volunteers, and general tactical guidance for many candidates (Thurber and Nelson 2000; Medvic 2001). Ultimately Obama is trying to limit the continuation of these identical tools and tactics after elections for major policy battles.

### HAVE OBAMA’S LOBBYING REFORMS MADE A DIFFERENCE?

Although candidate Obama promised to change the way lobbyists influence Washington politics, as president he has found changing the lobbying industry

**Table 8-1: President Obama’s Ethics and Lobbying Reforms, 2009–2010**

- Ethics Commitments by Executive Branch Personnel, Executive Order 13490, January 21, 2009.
- Memorandum for the Heads of Executive Departments and Agencies on Transparency and Open Government, January 21, 2009.
- Memorandum for the Heads of Executive Departments and Agencies on Ensuring Responsible Spending of Recovery Act Funds, March 20, 2009.
- Reducing Improper Payments and Eliminating Waste in Federal Programs, Executive Order 13520, November 23, 2009.
- Memorandum for the Heads of Executive Departments and Agencies on Freedom of Information Act, December 18, 2009.
- President Obama’s Weekly Address: President Obama Vows to Continue Standing Up to the Special Interests on Behalf of the American People, January 23, 2010.

Source: WhiteHouse.gov, Briefing Room, May 2010.

difficult because of its size and adaptability and because it is an integral part of pluralist democracy. By official estimates, the lobbying industry is the third-largest enterprise in our nation's capital, after government and tourism (Thurber 2009). The statutory definition of "lobbyist" under the Lobbying Disclosure Act is narrow and does not recognize every person in Washington's advocacy industry. A broader definition of advocacy includes all methods of influencing public policy decisions, including traditional lobbying, such as personal contacts with policy makers, but also grassroots lobbying, testimony at public hearings, submissions to administrative rulemakings, legal and strategic advice on political and policy matters, coalition building, public relations operations, and political strategy development, all with the ultimate goal of shaping policy. As of January 1, 2009, there were more than 13,664 federal-registered lobbyists representing virtually every type of interest in America (Center for Responsive Politics 2010a; Thurber 2009). The number of registered lobbyists dropped slightly in the first two years of the Obama administration. However, the number of persons employed in Washington who either are lobbyists or are associated with all dimensions of the advocacy industry (registered and unregistered advocates and supporting institutions) has been estimated to be well over 100,000. Spending by registered lobbyists has more than doubled in the last 10 years, from \$1.56 billion to \$3.49 billion in 2009, and that is just for the visible, registered activities (see Table 8-2).

The \$3.49 billion is just the tip of the lobbying expenditures iceberg, because it includes only what is recorded by registered lobbyists in public records. These expenditures average to more than \$20 million in lobbying expenditures each day Congress was in session in 2009, or over \$65 million per member of Congress. Moreover, the total does not include money spent for other forms of lobbying such as grassroots organizing, coalition building, issue advertising on television, radio,

**Table 8-2: Lobbying Expenditures, 1998–2009**

	Total Lobbying Spending	Number of Lobbyists
1998	\$1.44b.	10,404
1999	\$1.44b.	12,943
2000	\$1.56b.	12,541
2001	\$1.64b.	11,845
2002	\$1.82b.	12,131
2003	\$2.04b.	12,923
2004	\$2.17b.	13,158
2005	\$2.43b.	14,070
2006	\$2.62b.	14,516
2007	\$2.85b.	14,869
2008	\$3.30b.	14,216
2009	\$3.49b.	13,664
2010	\$2.61b.*	12,488

\*Estimate as of 7/26/10

Source: Total spending and number of unique, registered lobbyists who have actively lobbied from Senate Office of Public Records data downloaded on July 26, 2010.

and in the print media, support of think tanks, issue-related survey research, and advocacy on the Internet. There are estimates that the total spent on lobbying is closer to \$9 billion per year in Washington—or about three times the officially reported amount (Thurber 2009). None of these figures include the additional \$4 billion spent for the 2010 congressional campaigns.

## LOBBYISTS, ADVOCATES, AND THE WHITE HOUSE

A major dilemma for the president is that sometimes he likes and needs lobbyists and other times he attacks them and uses his criticism to build support for his policies. Sometimes he tries to stop them and other times they have become essential to his legislative strategy. He has publicly praised his "stakeholders" (often federal registered lobbyists) from organizations such as the AARP, the pharmaceutical industry, the American Hospital Association, and the American Medical Association in the health care battle, who supported his policies, while generally criticizing lobbyists as part of the corrupt political culture of Washington. Part of Obama's inconsistent rhetoric with his policy needs may stem from the dual roles of campaign consultants and lobbyists in Washington. The capital's integrated culture of big money fund-raising and K Street power brokers is difficult to change.

Campaign-consultants-turned-lobbyists/advocates who build strong reciprocal relationships with candidates-turned-elected-office-holders (presidents) or appointees are part of the Washington political culture that President Obama is finding almost impossible to reform. One of the reasons may be his own inconsistency. It is hard to reform them when you need them. He is using these relationships to help move his policy agenda as revealed by his public statements and by the log of White House visitors from a variety of special interests. He did not stop the prominent role of lobbyists and unregistered "advocate strategists" like former senator Tom Daschle in campaigning and fund-raising, and ultimately lobbying, in 2008 and 2010.

President Obama's Executive Order prohibits the lobbyist-White House revolving door in and out of government, but it has proven difficult to break old habits in the way Washington works, as shown by the extent and strength of the revolving door of lobbyists in and out of the White House in recent years (Baumgartner, LaPira, Thomas 2008). Individuals who do not meet the narrow statutory definition of "lobbyist" but are engaged in all methods of influencing policy decisions have heavily populated the Obama White House, and departments and appointment exceptions have been made (CRP 2010a). Advocates, such as former Senator Tom Daschle, President of the Center for American Progress John Podesta, and many other non-federal registered lobbyists have had easy access to the White House in the first two years of the Obama administration, as shown on the White House log of visitors.<sup>3</sup>

What is the difference between lobbyists and nonregistered stakeholder advocates (e.g., former Senator Tom Daschle), who are both public advocates for his policies? Advocates and lobbyists cite the same source of legitimacy; that

is, a fundamental right of free speech, of assembly to petition government for grievances, all guaranteed under the First Amendment. A federal registered lobbyist, defined in law, must report quarterly the details of their lobbying activities, clients, and money spent. Fines and jail are possible for those who do not comply. Nonregistered "stakeholders," as President Obama calls some of his supporters, are not held to that standard; their activities and spending are not reported publicly, and generally their advocacy activities are nontransparent. They are not under the threat of fines and jail if they keep their activities secret. They also can escape the revolving-door restrictions and can be appointed to executive branch positions.

The campaigning and later advocacy activities of Daschle, Podesta, and hundreds of others who both played key roles in the Obama campaign and his transition are examples of people with outside interests who have inside access to power in the White House (CRP 2010a). Because of the new transparency rules about White House visitors, there is a public record of dozens of meetings between Daschle, Podesta, and White House staff (including the president) during health care battles in 2009 and 2010. The Sunlight Foundation and the Center for Responsive Politics (2010b) analyzed the White House visitor logs and found, for example, that within a few months of being sworn in, President Obama and his top White House aides also met dozens of times with leaders from the pharmaceutical industry, unions, AARP, the American Medical Association, the American Hospital Association, American automobile companies, bankers, Wall Street executives, and other "special interests" to develop health care and Wall Street reforms that eventually passed in Congress.

The Center for Responsive Politics (2010a) analyzed Federal Election Commission (FEC) records and lobbying disclosure records by these organizations and showed sharp increases in campaign contributions and lobbying expenditures for health care issues from these organizations during 2009 and 2010. The CRP found that the pharmaceutical industry spent more than \$28 million on lobbyists, \$8 million on campaign contributions to both Democrats and Republicans on the Hill, and more than \$100 million on issue advertising that went to White House Senior Advisor David Axelrod's former firm AKPD (which owed Axelrod \$2 million). The role of lobbyists and campaign fund raisers has not abated; it has increased during President Obama's first two years in office, as shown by the historic levels of raising and spending money in the 2010 midterm election cycle.

#### CAMPAIGN CONTRIBUTIONS AND LOBBYING EXPENDITURES

The most prominent problem raised by Obama is that the enormous amount of campaign money raised and spent by interest groups for candidates and political parties raises serious ethical questions about corruption in financing elections. The president has argued that the amount of issue advertising, independent expenditures, and campaign services raised from interest groups can dwarf

the input from voters, political parties, and other groups with fewer resources, thereby almost ensuring narrow and possibly exclusive interest-group influence on public policy making.

The cost of all presidential and congressional campaigns, including soft money and issue advertising by interest groups, has increased dramatically in the 2008 and 2010 election cycles. It reached approximately \$5 billion in the 2008 presidential election and \$4 billion in the 2010 midterm elections, more than doubling the campaign expenditures of four and six years earlier. The president had little impact on reducing the amount of interest-group money raised and spent in 2010. In fact, he helped the Democrats raise large amounts of money from lobbyists and interest groups for the 2010 election.

The amount of campaign money spent in the 2010 election was partially as a result of the *Citizens United vs. FEC* Supreme Court case. Obama criticized the *Citizens United* decision and argued that the decision makes it more difficult to change the way money and politics work in Washington.<sup>4</sup> This massive increase in the 2010 election campaign money from special interest groups, often nontransparent, confirms President Obama's fears. Washington has not changed.

An unintended consequence of President Obama's expansive policy agenda has been a new spending frenzy by lobbyists and interest groups for and against his reforms. The increase in the amount of money spent by federal registered lobbyists and others in the advocacy business involved in battles over the stimulus legislation, health care reform, financial regulation, and climate change (cap and trade) alone was massive in 2009–2010 (see Table 8-2). Moreover, not included is the money spent on other nonregulated related lobbying activities (e.g., paid media, grassroots, grass tops, coalition building and maintenance, use of the Internet, survey research, and research at think tanks). Many think including such activities in the totals of expenditures on lobbying would triple the actual amount of advocacy spending in Washington (Thurber 2009). President Obama has not been able to stop or slow down this flow of money and influence either.

#### INTEREST GROUPS AND THE PERMANENT CAMPAIGN

Another issue identified by Obama (and scholars) is that interest groups feed the negative effects of the "permanent campaign," defined by Hugh Heclo as, "the combination of image making and strategic calculation that turns governing into a perpetual campaign and remakes government into an instrument designed to sustain an elected official's popularity" (Heclo 2000, 3). This campaigning results in an unrelenting demand from incumbents for campaign funds that are more easily collected from particular interest groups than broad-based networks. In an era of seeming endless partisan parity, the permanent campaign creates the need for advice from campaign consultants-lobbyists that is broadened beyond the strategy of conducting a winning campaign to include which issues and policies to embrace in order to win the next election (Heclo 2000; Blumenthal 1982).

National politics has thus gone past the stage of campaigning to govern and has reached the “more truly corrupted condition of governing to campaign,” with campaign consultants and lobbyists playing a central role in the phenomenon (Hecl 2000, 34).

Although President Obama has tried to be the post-partisan president and to stop the negative effects of the permanent campaign, the partisan war, he has not succeeded. Although he tried to break the lock of extreme partisanship, wedge issues, and the constant campaigning, he has failed. The more competitive the elections, the more heated the permanent campaign. Neither party has stopped the mean-spirited permanent campaign (Thurber and Nelson 2000). Divided party government in the 112th Congress and the seemingly partisan parity exacerbates the problem.

### CAMPAIGNING, LOBBYING, AND GOVERNING

A third problem is when interest groups participate in election campaigns and then lobby the same people they helped to get elected. Serious questions of conflict of interest arise, particularly with respect to the question of who is paying for what in the campaign and later for lobbying the newly elected public officials. These are serious consequences for what is in the public interest. For example, on May 8, 2010, White House Counsel Bob Bauer was granted a waiver from ethics rules President Barack Obama established for his administration to allow him to deal in an official capacity with his former law firm, Perkins Coie, on Obama's personal matters and on issues of campaign finance. Bauer played a key role in the Obama campaign and transition as well as an advocate-lobbyist for Perkins Coie before moving to the White House. Norm Eisen said that Executive Order 13490, which Obama signed upon taking office to establish ethics rules for his administrations, never conceived of a circumstance like Bauer's, and allowed for an exception. However, at least eight other exceptions to the revolving-door rules were granted for White House and executive branch appointees within the first two months of the Obama administration. More exceptions are likely to be made.

Obama's campaign consultants were often lobbyists before the election (such as Bauer and 23 other top campaign advisors), and some became lobbyists or advocate fund-raisers after the election (such as Daschle and Podesta). He did not stop the practice of these dual political identities. He seemed to encourage it, to need it, during the 2010 midterm election campaign when the congressional Democrats needed help. Are the lobbyist-campaign consultants loyal to their private clients or to the candidate and later elected public official? President Obama has not blocked the growth of people with dual political identities (lobbyist/advocate-campaign consultants) in the last two years, another measure of his inability to change the political culture of Washington. The Center for Responsive Politics Revolving Door project has identified more than 3,500 people whose careers have taken them from Capitol Hill, the White House, and

Cabinet offices to the lobbying profession and vice versa (CRP 2010b). It reveals the strong reciprocal relationships between those who represent special interests and those in government who regulate those interests.

### RECIPROCITY AND THE ETHOS OF POLITICAL POWER

Reciprocity is a major norm of political life. It is defined in Webster's dictionary as: “To return in kind or degree; the mutual or equivalent exchange or paying back of what one has received; a mutual exchange; mutual dependence, action or influence; a mutual exchange of privileges.” Has President Obama weakened the norm of reciprocity from American politics? It is unlikely. Reciprocity is one of the strongest embedded customs in public life. It is directly related to the problems and ethical scandals that created the environment of reform. It is part of the linkage among consultants, lobbyists, and elected public officials. The “iron law of reciprocity” is like gravity. That it exists is beyond dispute. That it has been changed by President Obama is questionable.

Reciprocity helps build political power in Washington. It can certainly be the basis of the movement of people through the political and government “revolving door.” Reciprocal campaign contributions and the drive for political self-preservation (re-election) is something President Obama has not stopped or even slowed. Candidates with the most campaign resources are able to hire the best campaign professionals, thus improving their probability of winning elections. Most of the campaign contributions (money, volunteers, and services) come from powerful businesses, unions, associations, and interest groups (Makinson 2002). Well-known campaign consultants also help generate campaign funds, thus helping to build incumbency advantage for the next election (Thurber and Nelson 2000). Successful campaign consultants are often financially successful in nonelection years because their business is both campaigning for candidates and lobbying for and against public policies. Electoral success for top campaign consultants breeds lobbying success or even service in government (e.g., President Bush's Karl Rove and President Obama's David Axelrod). More than 3,000 individuals have been identified from public records by the Center for Responsive Politics (2010b) as moving from campaigns to public service to lobbying and back. President Obama has not broken these strong political relationships through his rhetorical attacks on lobbyists or through his executive order. Reciprocity is at the heart of contemporary politics in the United States. It may undermine civic responsibility and reduce public trust in the policy-making process, but it is hard to stop. The public's strong negative reaction, especially in the 2010 election, to spending earmarks and the way Washington works is partially about this problem of reciprocity (“I will help you, if you will help me”). Although Obama promised to stop earmarks and change the cozy influence networks in Washington, he failed to do so in the first two years of office.

President Obama has far from smashed the reciprocal nexus of campaign consultants and lobbyists in policy-making networks, as shown by who served

in his own White House. His governing style in his first two years in office used advocates from outside government to build coalitions of support and to do direct lobbying of members of Congress. Some of his supporters were federal registered lobbyists and many are not; they all represent special interests in America. Campaign consultants and lobbyists or advocates build relationships to bring money to candidate campaigns to help them win and to influence elected public officials. President Obama has tried to break those ties, rhetorically and legally, but with limited success. He has proven that he needs those relationships to govern, thus doing little to change the political culture of reciprocity in Washington.

### LOBBYING AND DECLINING PUBLIC TRUST IN GOVERNMENT

Increasing public complaints about politics and the decreasing trust in governmental institutions is a fifth problem that President Obama has said stems directly from interest-group activity in elections (Mayer and Canon 1999; Mann and Ornstein 2008; Jacobson 2009a, 2009b). The strong networks of campaign consultants and those trying to influence policy were factors fostering voter cynicism toward government in 2008 (see appendix) and again in 2010 (Jacobson 2011a). However, President Obama's attacks on lobbyists may have increased unrealistic expectations for reform and had the unintended effect of reinforcing distrust in their role American politics (Thurber 2009). Obama's promised change did not happen before the 2010 election, and it hurt congressional Democrats. The level of trust in President Obama, Congress, Democratic leadership, and other governmental institutions has declined significantly in the last two years (Jacobson 2009a, 2009b, 2011a). Political trust has been declining over the last three decades for a variety of reasons, but one major factor is certainly the public perception about the way money and lobbyists work in Washington (Johnson and Broder 1996; Jacobson 2001; Thurber 2009). Obama has not stopped this continued decline in public trust of governmental institutions and public officials, as shown by Jacobson and Boyd earlier in this book, although his speeches have continued to identify this as a major challenge to US democracy.

### SUMMING UP OBAMA'S LOBBYING REFORMS

In the first two years of his administration, President Obama's lobbying reforms and his effort to change the way Washington works boil down to three basic principles of sound government: transparency, accountability, and enforcement.

President Obama has brought some new transparency, but generally his transparency initiatives have had limited effect. He tried to bring an unprecedented amount of transparency to the deliberations in the White House, in the executive branch agencies, and with the Congress (e.g., televised health care reform summit at the Blair House). However, with his attacks on lobbyists has come less transparency as a consequence of deregistrations of federal registered

lobbyists and the increase in people using other legal but nonregistered means to influence government (see Table 8-2). This has led to reduced transparency about who is lobbying, for whom and for what, and how much money is being spent on those advocacy activities (Thurber 2009).

President Obama has called for more accountability and enforcement of the law and rules related to lobbying and ethics. He has made it clear who is responsible for monitoring and maintaining ethical behavior for the White House and the agencies, the Office of Government Ethics in the White House, and other executive branch departmental ethics offices. President Obama's new rules have brought more accountability for lobbyists and executive branch officials, but ultimately it is the responsibility of the US Department of Justice (DOJ) to investigate and prosecute illegal lobbying behavior. The congressional ethics committees must ensure accountability of members of Congress and staff through its investigative function. Congress also has the oversight function over the implementation of lobbying laws. There have been more than 4,000 referrals from Congress to DOJ under LDA and HOGLA since 2007, but there have been no investigations.<sup>5</sup> Partially because of the new independent House Office of Congressional Ethics, the House Ethics Committee has had several high-profile investigations and convictions (Representatives Rangel and Maxine Waters in 2009–2010), but the Ethics Committee seems to be lapsing into their old habits of overlooking transgressions when it comes to most allegations of member and staff malfeasance. There have been no congressional oversight hearings of HOGLA since its passage in 2007.

President Obama's rhetorical reform goals and ethics and lobbying regulations fall far short of fulfilling these three basic principles. Lobbying disclosure, especially with the decline of federal registered lobbyists since 2007 and the growth on non-registered advocates, has had limited impact on changing the influence industry in Washington. Increased deregistration of lobbyists and growth of advocates giving strategic advise but not registering have resulted in a lack of transparency. An unintended consequence of President Obama's attempt to reduce conflicts of interest has seriously limited those with expertise from serving as appointees and on government advisory panels. President Obama has changed the rhetoric, but not the way Washington's political culture works.

President Obama's executive orders have set a new high standard of transparency, accountability, enforcement, and public participation, but with imperfect implementation and weak enforcement, his reforms are not yet transforming Washington. He has limited those who can be appointed to executive positions, but it has had little impact on those who actually influence the decision-making process. Moreover, President Obama has worked closely, often in a nontransparent way, with networks of "special interests" (lobbyists/advocates) in crafting the economic stimulus funding, health care reform, financial regulatory reforms, climate change legislation, education reform, immigration policy, and a wide array of other issues on his public policy agenda in 2009–2010. He has also met with many campaign contributors who have a vested interest in the policy battles. President Obama's populist rhetoric of greater transparency, more accountability, increased enforcement, and wider participation by the American public was a popular theme in the 2008 election and early in his administration. His failure

to reach these goals helped to create high expectations and an angry electoral backlash against Democrats in the historic 2010 midterm election (Jacobson 2011a). The constitutional and political reality of Washington has so far hobbled President Obama's ability to bring major change to the way decisions are made and in the negative public attitudes about how Washington works. Obama promised change, to be the reform post-partisan president, but he has failed to meet the expectations of the American public.

## APPENDIX

CCPS/Cooperative Congressional Election Study (CES) Candidate Lobbying and Ethics Questions—Pre- and Post-Election Surveys, October and November 2008

*CCPS/CCES Lobbying and Ethics Questions—Pre-Election Survey*

1. If elected President, how likely is it that Barack Obama will be influenced heavily by lobbyists and special interest groups? [*Percent listed is percent of those answering the question. Number in parentheses is actual number of respondents selecting that answer.*]

Very likely	41.05% (408)
Somewhat likely	19.22% (191)
Not very likely	20.82% (207)
Not at all likely	9.46% (94)
Not sure	9.46% (94)

2. If elected President, how likely is it that John McCain will be influenced heavily by lobbyists and special interest groups?

Very likely	34.44% (343)
Somewhat likely	23.69% (236)
Not very likely	22.99% (229)
Not at all likely	9.34% (93)
Not sure	9.54% (95)

3. Is it possible to run for President in today's world without having ties to any lobbyists and special interest groups?

Yes	24.80% (248)
No	48.60% (486)
Not sure	26.60% (266)

4. Is Barack Obama more ethical, less ethical, or about as ethical as most politicians?

More ethical	36.67% (366)
Less ethical	32.57% (325)
About as ethical as most	25.15% (251)
Not sure	5.61% (56)

5. Is John McCain more ethical, less ethical, or about as ethical as most politicians?

More ethical	35.87% (358)
Less ethical	21.64% (216)
About as ethical as most	35.97% (359)
Not sure	6.51% (65)

6. If elected President, how likely is it that Barack Obama will change the way Washington works?

Very likely	30.39% (303)
Somewhat likely	27.68% (276)
Not very likely	14.64% (146)
Not at all likely	20.66% (206)
Not sure	6.62% (66)

7. If elected President, how likely is it that John McCain will change the way Washington works?

Very likely	13.04% (130)
Somewhat likely	23.67% (236)
Not very likely	27.88% (278)
Not at all likely	30.29% (302)
Not sure	5.12% (51)

*CCPS/CCES Lobbying and Ethics Questions—Post-Election Survey*

1. How likely is it that President-Elect Obama will be influenced heavily by lobbyists and special-interest groups?

Very likely	37.82% (306)
Somewhat likely	19.65% (159)
Not very likely	24.35% (197)
Not at all likely	9.77% (79)
Not sure	8.41% (68)

2. Is President-Elect Obama more ethical, less ethical, or about as ethical as most politicians?

More ethical	37.79% (305)
Less ethical	24.41% (197)
About as ethical as most	29.12% (235)
Not sure	8.67% (70)

3. How likely will President-Elect Obama change the way Washington works?

Very likely	24.41% (197)
Somewhat likely	31.60% (255)
Not very likely	18.71% (151)
Not at all likely	19.21% (155)
Not sure	6.07% (49)



## NOTES

1. A person who must register as a federal lobbyist is one: (1) who is employed or retained by a client for compensation; (2) who has made more than one lobbying contact on behalf of such client; and (3) who spends at least 20 percent of his/her time working for that client during a three-month quarter on “lobbying activities” (defined in the LDA).

2. Both candidates publicly banned federal registered lobbyists from serving on their campaign staffs, but 42 top campaign staffers for McCain were recently lobbyists, and 23 top campaign staffers for Obama were recently lobbyists.

3. See [WhiteHouse.gov](http://WhiteHouse.gov) Visitor’s log for 2009–2010.

4. On January 21, 2010, President Obama stated: “With its ruling today, the Supreme Court has given a green light to a new stampede of special interest money in our politics. It is a major victory for big oil, Wall Street banks, health insurance companies, and the other powerful interests that marshal their power every day in Washington to drown out the voices of everyday Americans. This ruling gives the special interests and their lobbyists even more power in Washington—while undermining the influence of average Americans who make small contributions to support their preferred candidates. That’s why I am instructing my Administration to get to work immediately with Congress on this issue. We are going to talk with bipartisan Congressional leaders to develop a forceful response to this decision. The public interest requires nothing less.”

5. This was reported by a legislative assistant on the Senate Rules Committee to the author in May 2010.

## PART III

### OBAMA AND THE MEDIA

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