The DNC Dismantled Its System for Vetting Contributions

As the DNC tried to slake the White House's historic thirst for campaign cash, it dismantled its system for reviewing contributions. The Committee concludes that the DNC, at a minimum, operated with a conscious disregard for the legality of contributions during the 1996 election cycle. Simply stated, the DNC knew how to implement procedures reasonably calculated to diminish the risk of accepting illegal or inappropriate contributions. The DNC had such procedures in place before the 1996 election cycle, and the DNC has such procedures now. Yet during the 1996 election cycle, the DNC did virtually nothing to screen significant contributions.

The 1992 Vetting System

The DNC was not always indifferent to the legality and appropriateness of large contributions. In preparation for the 1992 election cycle, Rob Stein, a DNC consultant, and later Ron Brown's Chief of Staff at the Department of Commerce, worked with then-DNC General Counsel Carol Darr to ensure that the DNC had an effective procedure in place to vet contributions.[1] Darr, who had worked on the 1988 Dukakis presidential campaign, wanted to institute a system at the DNC resembling the one used by the Dukakis campaign. Darr and Stein thus met with Dan Small, who had been in charge of vetting for the Dukakis campaign.[2]

Following this meeting, the DNC implemented a system similar to the Dukakis campaign's for vetting contributions over $10,000. Any check for $10,000 or more was to go through a vetting desk.[3] This desk was supervised by Barbara Stafford, an attorney in the DNC's Office of General Counsel. Stafford had full-time responsibility for vetting contributions, as did her assistant, David

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1 Deposition of Robert J. Stein, June 17, 1997, p. 57.

2 *Id.* at p. 58.

3 *Id.*

Blank.[4] In fact, the 1992 vetting system involved an entire group of DNC staff, usually numbering between six and 10, who did nothing but vet major contributions.[5] Current DNC Deputy General Counsel Neil Reiff has confirmed to the Committee that there was once a separate "unit" of about seven or eight people, supervised by Barbara Stafford, that vetted checks.[6] Likewise, current DNC General Counsel Joseph Sandler testified that "for the 1992 election a procedure know as Major Donor Screening Committee" was in place.[7]

In short, the 1992 vetting system involved a special vetting desk, staffed by six to 10 people, directly supervised by the DNC's Office of General Counsel.

1994: Vetting Fades

Carol Darr and Barbara Stafford were no longer in the Office of General Counsel during the 1994 election cycle. Darr's replacement, Sandler, was apparently somewhat less concerned with vetting contributions. Unlike the old vetting desk, supervised directly by the Office of General Counsel, the DNC began to rely on a less formal system involving one member of the DNC's Office of General Counsel and the part-time efforts of one member of the DNC's Research Division, Rumi Matsuyama, who was charged with helping DNC Deputy Counsel Neil Reiff vet checks larger than $25,000.[8]

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4 *Id.* at p. 81.

5 Deposition of Melissa A. Moss, June 11, 1997, pp. 12, 17.

6 Deposition of Neil Reiff, June 20, 1997, p. 30.

7 Deposition of Joseph E. Sandler, May 15, 1997, p. 47.

8 Deposition of Rumi Matsuyama, June 10, 1997, p. 21; *see also* Reiff deposition, p. 37.

Matsuyama would receive a check and an attached form, entitled "Major Donor Screening Form," from Reiff.[9] She would then perform a NEXIS search using the information on the form; relevant information would be downloaded. In addition, she would search a CD-ROM of Federal Election Commission records to ascertain whether the donor made other, presumably legal and appropriate contributions.[10] She would then prepare a memorandum summarizing her research.[11] The memorandum, as well as the downloaded research, was attached to the Major Donor Screening Form, which was the same or substantially similar to the form used by the DNC's vetting desk in 1992, and all of these documents were returned to Reiff.[12] Reiff would then review the information and decide whether the DNC should accept and deposit the contribution.[13]

Matsuyama testified that she spent approximately five to 10 hours a month performing this vetting function; the remainder of her time was spent researching political issues.[14] She left the DNC in May 1994.[15] She was not replaced, and the check-vetting process for large contributions essentially ceased.

The 1996 Election Cycle: What Really Happened?

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9 *See, e.g.*, Major Donor Screening Form dated May 24, 1993 (Ex. 1); Major Donor Screening Form dated April 17, 1993 (Ex. 2).

10 Matsuyama deposition, pp. 11-13.

11 *Id.* at pp. 14, 39.

12 *Id.* at pp. 13-14, 39.

13 Reiff deposition, pp. 27-28.

14 Matsuyama deposition, pp. 7, 22.

15 *Id.* at p. 6.

The Committee's search for information about the DNC's vetting procedures following Matsuyama's departure in May 1994 was difficult. In many respects, the Committee could learn little more than DNC National Chairman Don Fowler could:

> **Q:** What was your reaction to the vetting process that had been in place once that was explained to you?
>
> **A:** Well, at that point, it became -- it was reasonably clear that we should explore some more thorough vetting process than we had, more systematic vetting process, and we put that in place.
>
> * * *
>
> **Q:** And were you told during that explanation that in about the summer of '94, the DNC changed its process of doing Lexis-Nexis research on potential contributors?
>
> **A:** I was told that the prior process was suspended and that the responsibility was given to the Finance Division. I think we're talking past each other. I don't think --
>
> **Q:** I think we're talking about the same. And how was it explained to you that the Finance Division carried out its vetting process?
>
> **A:** There was a lot of vagueness there.
>
> **Q:** Did you press for specifics in asking that question?
>
> **A:** Yes, and there were no specifics available.[16]

The Committee encountered similar difficulties in trying to find out what vetting procedure, if any, was in place during the 1996 election cycle. As will be seen, much of the uncertainty stems from the testimony of those who should have been most responsible for ensuring that an adequate vetting procedures existed -- the staff of the DNC's Office of General Counsel. The conclusion the Committee reaches is essentially the same as that reached by the DNC's National Finance Director,

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16 Deposition of Donald L. Fowler, May 21, 1997, pp. 348, 350.

Richard Sullivan, who testified that it was his view that there was "a poor compliance system and no legal vetting."[17]

Two self-serving explanations have been offered by witnesses associated with the DNC's Office of General Counsel for the absence of any vetting procedures during the 1996 election cycle. First, Joe Sandler and Neil Reiff essentially tried to shift blame to the Finance Division for poor vetting, by asserting that the vetting function had been transferred to that division. Second, they engaged in historical revisionism, attempting to segregate vetting for "legality" from vetting for "appropriateness," and then asserting that the 1992 and 1994 procedures -- which plainly collapsed in 1996 -- related only to "appropriateness" vetting, while "legality" vetting continued throughout. At every turn, Sandler and Reiff attempted to exculpate themselves from any responsibility for failing to catch the approximately $3 million in illegal and inappropriate contributions that the DNC has itself returned.[18]

<u>The Explanation that Vetting was Transferred to the Finance Division</u>

At first, based on the sworn testimony of DNC officials, the Committee believed it would learn that someone within the DNC's Finance Division had taken over Matsuyama's responsibilities for researching contributors for purposes of vetting major contributions. During the first day of his deposition, Sandler testified that "as of when Matsuyama left the DNC ... a Nexis account number was given to the Finance Division, and ... the Finance Division used that Nexis account from time to

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[17] Deposition of Richard Sullivan, June 25, 1997, p. 120.

[18] According to a June 27, 1997 DNC press release, the DNC had by that date returned $2,825,600 in suspect contributions accepted during the 1996 election cycle. The DNC has failed to return other contributions of questionable legality. *See*, *e.g.*, the section of this report on the contributions of Ted Sioeng, his family, and related business interests.

time ... to screen donors ...."[19] Likewise, Sandler's deputy, Reiff, testified that "we approached Jeff King as a staffer on the finance department at the time, and ... my recollection is that he did agree in principle to do this function of research."[20] Reiff further testified that, at a meeting he attended with King, "[m]y impression essentially was that the finance department in principle said they would do this function of research to continue some type of appropriateness vetting for donors."[21]

This testimony was only partially truthful. The Committee concludes that, although there was discussion of moving Matsuyama's research function into the Finance Division, and although a Finance Division staffer originally agreed (subject to the approval of his superiors) to have a particular Finance Division employee perform that research, the employee who was to perform the research was laid off within a matter of days and the research function was never assumed by the Finance Division. Thus, the Finance Division never performed the research that Matsuyama previously undertook, and the DNC's Office of General Counsel simply fell out of the process of automatically reviewing major, new contributions.

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19 Deposition of Joseph E. Sandler, May 15, 1997, p. 59.

20 Reiff deposition, pp. 39-40.

21 *Id.* at p. 41. Reiff also told B.J. Thornberry, the DNC's Chief of Staff, that "the vetting responsibility was moved to Finance" when Matsuyama left the DNC. Deposition of B.J. Thornberry, May 20, 1997, p. 78. Thornberry, who was attempting to respond to press inquiries, investigated the DNC's vetting procedures on her own during the fall of 1996. She concluded that "while the function was transferred to Finance, that clearly, if it was happening, it was happening on an episodic basis and it never became standard operating procedure." *Id.* at p. 79. The basis for this conclusion was that "we were in the midst of beginning to return checks that had <u>clearly</u> not gone through <u>any</u> quality control procedures." *Id.* (emphasis added).

The Committee's conclusion is based on the testimony of Jeff King, who primarily handled operations issues within the Finance Division. He rebutted the attempt to shift responsibility to the Finance Division for the dismantling of vetting procedures by establishing that Reiff knew that the Finance Division had not undertaken the vetting function. King testified that he had a meeting with Reiff (and others) about the time that Matsuyama left, and in the course of that meeting King agreed to have Nicole Hecker, a Finance Division employee, perform the Nexis searches -- so long as King's superiors agreed.[22] Shortly after that meeting, the DNC laid off Hecker.[23] As a result, "the whole process never was implemented."[24] After Hecker's layoff, it was clear to King that the Finance Division could not assume the responsibility of conducting the NEXIS research.[25] More telling, King had a phone conversation with Reiff within six weeks of King's deposition, in which Reiff acknowledged that "he knew [the Finance Division] just didn't have the manpower to do what was necessary and that [it] certainly did not have the resources to do it."[26] Thus, Reiff later admitted that he knew that the Finance Division was not undertaking the research associated with vetting contributions.

Richard Sullivan, the DNC's National Finance Director, confirmed King's account. Sullivan testified that he was never aware of any shift in responsibility for performing vetting research from

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22 Deposition of Jeffrey King, June 26, 1997, pp. 18-19, 23-24, 43.

23 *Id.* at pp. 24, 43.

24 *Id.* at p. 29.

25 *Id.* at pp. 30, 43-44.

26 *Id.* at p. 31; *see also id.* at pp. 30, 44.

the Office of General Counsel and Research Division to the Finance Division.[27] It was always Sullivan's understanding that the General Counsel was responsible for screening contributions.[28] Sullivan, the highest-ranking paid employee of the Finance Division, agreed that it was not conceivable that the Finance Division would assume responsibility for check vetting without his knowing about it.[29] When Sullivan first heard the suggestion that the responsibility had been shifted to the Finance Division, he investigated and could not find any individual within the Finance Division who was aware of such a shift in responsibility.[30] During 1997, however, he did learn from Jeff King that King had met in 1994 with Reiff and Sandler, and they discussed the possibility of an individual with the Finance Division assuming responsibility for screening in the light of DNC layoffs; however, King informed Sullivan that the individual (Hecker) had left within a few days of the meeting, and King "told the people that were in the meeting with him that [the Finance Division] couldn't take that responsibility, so that [it] never took that responsibility."[31]

In addition to his pre-deposition admission to King,[32] there is other evidence that Reiff knew that the DNC had stopped researching new contributions. He testified that he would review about five to 10 Major Donor Screening forms per week when Matsuyama was still a DNC employee.[33]

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27 Deposition of Richard Sullivan, June 5, 1997, pp. 124, 128.

28 *Id.* at pp. 120-21, 129-30.

29 *Id.* at pp. 128-29.

30 *Id.* at p. 129.

31 *Id.* at p. 133.

32 *See supra*, text accompanying note 26.

33 Reiff deposition, p. 36.

After she left, Reiff testified that "the [vetting] process that I knew, that I was running, was over."[34] Reiff simply was "no longer involved in the vetting of donors for appropriateness at that point."[35] At no point did Reiff testify as to any personal awareness that someone else was conducting the review of research materials that he had once conducted, nor did he testify that he trained anyone within the Finance Division to perform that review.

To the contrary, Reiff testified that Scott Pastrick, the DNC's Treasurer, "complained to me that there was no process within the finance department" for vetting.[36] Reiff recalled that this conversation took place in the summer of 1996.[37] If the DNC's Treasurer -- a volunteer, part-time officer -- could discern that the Finance Division was not vetting contributions, it strains credulity to suggest that the DNC's Office of General Counsel truly believed that research for purposes of vetting was being carried out by the Finance Division.[38] In fact, the candor of both Sandler's and Reiff's

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[34] *Id.* at p. 43.

[35] *Id.*

[36] *Id.* at p. 50.

[37] *Id.*

[38] Pastrick testified that he spent "about eight or ten hours a week" at the DNC's offices. Deposition of Robert Scott Pastrick, May 7, 1997, p. 46. The office of treasurer was voluntary and unpaid. *Id.* at p. 8.

Interestingly, one of the primary functions of a national committee treasurer is to sign the committee's FEC reports. *See* Deposition of Richard Sullivan, June 4, 1997, pp. 46-47. Under federal election laws, only the treasurer or an assistant treasurer may sign the FEC reports. 2 U.S.C. § 434(a)(1) (treasurer must sign); 11 C.F.R. § 102.7(a) (assistant treasurer acceptable). Pastrick never signed an FEC report on behalf of the DNC. Pastrick deposition, p. 15. Richard Sullivan's recollection of Pastrick's explanation for this is interesting:

> **Q**: Well, tell me what he [Pastrick] said in those conversations.
> **A**: He said that he wasn't -- he said that he was told by Brad

claim that the Finance Division had agreed to assume the vetting research is called into question by Reiff's own testimony strongly implying that both Sandler and he were aware that vetting had essentially "ended," and that this concerned both of them.[39]

> Marshall [DNC Chief Financial Officer] and Joe Sandler that he was not allowed to sign the FEC reports.
>
> **Q**: Did he say why they had told him that?
>
> **A**: He said that he had a -- I think I remember, you know, insinuating or saying that they may not have wanted him to be a witness to the spending report side of it.
>
> **Q**: Did he indicate what that was that they didn't want him to be a witness to the spending?
>
> **A**: As I recall, he may have -- as I recall, he talked about the fact that they may have been spending money, making expenditures that if he -- that they didn't want him to know about. My sense was -- and I don't recall if he -- my sense of it is, and memory -- I don't recall vividly him saying this, is that, you know, they may have been giving contributions to certain campaigns or they may have been -- expenditures that they just didn't know that -- just didn't want him to know about.
>
> And, again, my memory of it is that there may have been expenditures that they didn't want Scott to know about because Scott might tell people in the White House, Harold [Ickes] or Doug [Sosnik].

Deposition of Richard Sullivan, June 4, 1997, pp. 48-49; *see also id.* at pp. 53-57. Sandler acknowledged that Brad Marshall, the DNC's Chief Financial Officer, was "the designated assistant treasurer for FEC purposes." Deposition of Joseph E. Sandler, August 21, 1997, p. 38. Sandler denied, however, that he ever told Pastrick that he was not allowed to sign FEC reports. *Id.* at p. 47.

[39] Reiff testified as follows:

> **Q**: I also want to be clear. I think you answered before, but I want to make sure we are clear on it.
>
> After the meeting with Mr. King, you don't recall having any conversation with anyone at the DNC about what's going on with this appropriateness screening other than the Pastrick conversation and up until the press reports?
>
> **A**: I don't specifically -- I am sure over a period of time I probably expressed disappointment to Joe [Sandler] again as we went along. I don't know how many times, if I did it or not, but I'm sure I felt disappointed right after it happened in terms of 1994. But no, I have no other

King appears to have been worried that the DNC and its outside law firm would nevertheless exploit his 1994 meeting with Reiff and others in an attempt to heap blame on him for the DNC's inadequate vetting. According to Sullivan, King told him that Debevoise & Plimpton, the DNC's outside law firm, had "summoned" King to come talk to them about the subject of vetting, and King "stated that he felt like the blame for all of this was being placed on his shoulders because of this one meeting ...."[40] King told Sullivan that he (King) "felt like they were trying -- that the DNC, Debevoise & Plimpton were trying to blame him."[41] In his deposition, though, King denied telling Sullivan that King believed that the DNC or Debevoise & Plimpton were trying to pin blame on him,

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> recollections of any other conversations.
>
> **Q**: What was Mr. Sandler's reaction when you expressed that to him?
>
> **A**: I can't tell you anything specific. I don't recall anything specific, but <u>I think we were both generally disappointed that the process ended</u>, the one that I was running. That's pretty much all I can tell you about that.
>
> **Q**: Did you suggest to Mr. Sandler he bring it up with the higher-ups at the DNC?
>
> **A**: My impression is that I did. I couldn't tell you when, how many times, but my impression is I probably mentioned it on a couple of occasions.
>
> **Q**: What was his reaction to that?
>
> **A**: My impression, again, not remembering specifically, I'm sure he expressed support of my view, but I never asked him -- I don't recall ever asking him specifically whether he asked or what the response was to his request.
>
> **Q**: As you sit here today, do you know whether he brought the issue up with anyone in the management structure of the DNC?
>
> **A**: No, I don't really know anything about that. I don't recall him relaying any information back to me, for that matter.

Reiff deposition, pp. 68-70 (emphasis added).

40 Deposition of Richard Sullivan, June 5, 1997, p. 135.

41 *Id.* at p. 139.

characterizing Sullivan's sworn testimony as "inaccurate."[42] King later admitted, however, that he was "concerned" that an apparently incomplete memorandum in the DNC's files could be misinterpreted as stating that the Finance Division had assumed the NEXIS research responsibility, when, in fact, it had not.[43] King testified that he might have shared this concern with Sullivan.[44] In

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[42] King deposition, pp. 36-38.

[43] *Id.* at pp. 46-47; Memorandum from Jeff King to Stephen Goodin, June 7, 1994 (Ex. 3).

[44] King deposition, p. 47. Sullivan generally shared King's concern about the DNC's outside law firm, as Sullivan testified that, in his own meeting with Debevoise & Plimpton lawyers shortly after the election, the tone of questions addressed to him about vetting procedures at the DNC was "accusatory," and he had the "sense" that Debevoise & Plimpton wished to lay blame at his feet. Deposition of Richard Sullivan, June 25, 1997, pp. 115-16. Sullivan went on to add that he felt that the Debevoise & Plimpton lawyers "knew who they represented and who they didn't." *Id.* at p. 116. He continued:

> They represented the DNC as an institution, and the DNC officers, Fowler, Dodd, and they -- you know, and they conveyed the sense that they -- they conveyed the sense, you know, that that included like the chief of staff <u>and the general counsel</u>, too.
>
> **Q:** So, if there was blame to be laid, it would not be laid at the feet of the officers of the higher-ups; is that accurate?
>
> **A:** That was what -- that was where they wanted to go.
>
> **Q:** But it was okay to lay the blame at some of the subordinate employees --
>
> **A:** Sure.
>
> **Q:** -- lay blame at the feet of some of the subordinate employees?
>
> **A:** Correct.
>
> **Q:** You fell into that latter category?
>
> **A:** Yes.

Id. at p. 117 (emphasis added).

fact, Reiff also testified that he "got the impression that he [King] was concerned about being blamed about something."[45]

Whatever effort may have been made by the staff of the DNC's Office of General Counsel or the DNC's outside law firm to blame the Finance Division, the evidence is overwhelming that the Finance Division never in fact undertook to perform the limited vetting research previously done by Matsuyama, and that the Office of General Counsel knew this. The DNC's vetting process simply was allowed to collapse. While many expressed concerns about the collapse, no one thought to restore the vetting process, as that might slow or limit the money flowing to the DNC.

The Explanation Distinguishing Between Vetting for "Appropriateness" and "Legality"

Another supposedly exculpatory contention made only by Sandler and Reiff is that the DNC did not dismantle its system for vetting contributions for "legality." To make this contention, Sandler and Reiff asserted that vetting for "legal" issues was *always* the responsibility of the individual fund-raiser receiving a contribution, and that the automatic vetting process in place in the 1992 and 1994 election cycles was designed to screen only for "appropriateness."

Sandler tried to explain the difference between screening for legality and appropriateness in the following manner:

> [F]irst of all, with respect to legality, throughout the time period [February 1993 to October 1996] the finance staff and the accounting staff were advised that if there was any issue or question of legality, that it should be brought to the Office of General Counsel. The Finance staff was issued specific written guidelines to that effect and there were also training sessions held for that purpose.
>
> With respect to appropriateness, it is part of legality, there was automatic screening for donor limits. In other words, if somebody had written an individual check and it was checked and it was not clear if it was designated for the federal

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[45] Reiff deposition, p. 47.

> account, it was checked to see if they had already given the maximum. We routinely check to see if they had given the maximum to the federal account. If they had, we automatically put it in a non-Federal account. If they hadn't, the procedures generally throughout this period called for the appropriate redesignation form to be sent out to the donor.
>
> So, I mean that is an aspect of legality. Other more complicated questions of legality, the procedure was to bring them to our office for discussion, which was done routinely and consistently throughout this period.
>
> With respect to appropriateness, I described the process that was in place until approximately May of 1994. It is my general understanding that as of when Ms. Matsuyama left the DNC that the research position, the position of the Research Division that she had, was either not filled or was used for other research purposes, and that a Nexis account number was given to the Finance Division, and that the Finance Division used that Nexis account from time to time, as they found it necessary, to screen donors who were not otherwise well-known to them or about whom they had some concern for appropriateness.[46]

This distinction was also urged by Reiff,[47] and Sandler reiterated it in his opening statement before the Committee in public hearings.[48] The exculpatory nature of this distinction is that Reiff and Sandler can claim that vetting for issues of "legality" was not terminated on their watch.

The attempt to describe the elaborate research of the 1992 "vetting desk" as mere "appropriateness" vetting is revisionist. Those who created that "vetting desk" were concerned with issues of legality -- as well as broader concerns about the appropriateness of accepting certain contributions. Rob Stein testified that he and former DNC General Counsel Carol Darr looked to the

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46 Deposition of Joseph E. Sandler, May 15, 1997, pp. 58-59.

47 *See, e.g.,* Reiff deposition, p. 19 ("There is political and appropriateness screening, and then there is legal, legality screening.").

48 Testimony of Joseph E. Sandler, September 10, 1997, pp. 4-8. Sandler stated that there "are two distinct aspects to such screening: legality and appropriateness." *Id.* at p. 4. He then gave an explanation of the distinction similar to that offered in his deposition.

1988 Dukakis campaign because they "knew that they had [a] well-structured and [a] rigorous system ... for complying with the laws governing campaign finance."[49] He testified that the system actually implemented by the DNC for the 1992 elections was one that "worked," adding that "we had what we needed to assure that the laws were being complied with in terms of donor contributions. And it wasn't just the laws, we had concerns about conflicts of interest or tainted money or whatever."[50] The old DNC "vetting desk" supplemented the DNC's training its fund-raisers to be sensitive to legal issues.[51]

Second, the "appropriateness" vetting described by Sandler and Reiff -- Nexis searches and searches of FEC databases -- could have triggered a review of contributions for both legality and appropriateness. After all, an illegal contribution would seem to be inappropriate, and the research gathered in assessing the "appropriateness" of a contribution could well be used to ascertain its legality. In fact, Neil Reiff testified as follows:

> **Q**: So hypothetically if you do a Nexis search on someone and it turns out that person is a citizen of a foreign country and the article goes on to state they don't have any residence status in the United States, therefore, take it from there they can't make a contribution, you would be able to use that information to make a legality decision?
>
> **A**: Hypothetically, yes.
>
> **MR. BEST [DNC lawyer]**: Or hypothetically be found that he was a bankrupt.
>
> **THE WITNESS**: There is [sic] a million things you could find out. It is all part of the same process.

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[49] Stein deposition, pp. 57-58.

[50] *Id.* at p. 59.

[51] *Id.* at pp. 59-60.

BY MR. KUPFER [Counsel for the Committee]:

Q: And so it seems that you stated that you can get information that would go towards legality from the appropriateness screening?

A: Hypothetically you can, but it is not a foolproof system.

Q: I understand it is not a foolproof system. You could get information that would assist you in making a legality determination, is that correct?

A: Hypothetically speaking, yes.[52]

Accordingly, the dismantling of the automatic "appropriateness" vetting system -- to use Sandler's and Reiff's characterization -- removed information from the process that could have been informative to the potential legality of a contribution.[53]

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52 Reiff deposition, pp. 65-66.

53 In fact, as discussed earlier, Reiff testified that, before Matsuyama's departure, he had been reviewing approximately five to 10 Major Donor Screening Forms per week. *Id.* at p. 36. Obviously, this afforded Reiff, the DNC's Deputy General Counsel, an opportunity to apply his legal training to the Nexis and FEC research gathered by Matsuyama. But, as also discussed earlier, after Matsuyama left, the responsibility for vetting fell off Reiff's "radar screen." *Id.* at p. 42.

Despite Reiff's relatively straightforward testimony, Sandler attempted to assert in his public testimony before the Committee that the failure to re-assign the so-called "appropriateness" screening did not "materially contribute to the receipt of the contributions the DNC has been required to return," because "a routine Nexis check would not detect contributors serving as conduits for ... foreign source contributions." Sandler testimony, p. 8. Sandler then offered, as one of several examples, the Yogesh Gandhi contribution, discussed elsewhere in this report. *See* the section of this report on Yogesh Gandhi. According to Sandler, Lexis-Nexis searches -- had they been performed -- would have disclosed "a small claims court judgment and a routine State tax lien for a few thousand dollars." Sandler testimony, p. 9. This blithe dismissal of Gandhi's public record caused Senator Collins to wonder:

> First of all, I have to say, I don't think a tax lien of any sort is routine. But putting aside that question, would it not have struck you as at least somewhat unusual and worthy of further investigation that an individual who has never before made a political contribution in any amount, comes in

Even assuming that the revisionist explanation should be accepted, and further assuming that there was no interdependence between "appropriateness" and "legality" screening, the legality "screening" envisioned by Sandler, which called on the fund-raisers themselves to vet contributions, was fatally flawed. The first fatal flaw with this alleged process was that individual fund-raisers did not understand that they were to be the only line of defense against illegal contributions. For example, when the Committee deposed David Mercer, the DNC's Deputy National Finance Director, he was shown three consecutively-numbered Lippo Bank checks, each dated August 1, 1995, from Kenneth R. Wynn to the DNC, and each for $5,000.[54] Each check was pre-printed with a home address in Jakarta, Indonesia. Mercer filled out a check tracking form for these contributions.[55] This provoked some of the following questions:

> **Q**: Is there a procedure in place when receiving a check with a foreign home address?

> with a check for $325,000, and yet your own check, your own quick review, your own Lexis-Nexis review, reveals that he has a small claims judgment against him for unpaid bills as well as a tax lien? When you couple a first-time donor making a huge contribution with the existence of a small claims court judgment and a tax lien, why wouldn't that raise suspicions for you to want more information and to clear this check and vet it more thoroughly?

Hearing Transcript, September 10, 1997, p. 82. No satisfactory answer was forthcoming, although the answer may underscore Sandler's complete lack of caution. To Sandler, the existence of unpaid small claims judgments and state tax liens was not something that raised "red flags," or was "unusual." *Id.* at p. 83.

54 Checks from Kenneth R. Wynn to the DNC, August 1, 1994, and accompanying DNC Check Tracking Form (Ex. 4).

55 Deposition of David Mercer, May 14, 1997, p. 42. A check-tracking form was a form usually filled out by the DNC fund-raiser to keep track of contributors, identify those responsible for soliciting the contribution, and ascribe the contribution to a particular event (if applicable).

A: I do not recall among the literature that we received, among the guidelines, fund-raising guidelines, that if you receive a check with a home address or I don't even know if it's a home address, but an address that has a foreign city and State in it that you were to do X, Y or Z.

Q: Were there any procedures in place if you suspected a check was not from a U.S. citizen?

A: Yeah. Yes.

Q: What were those procedures?

A: To inform the individual that we were unable to accept contributions from noncitizens.

Q: In this case, you did not, to your recollection, attempt to contact the individual who made the contribution; is that correct?

A: That is correct.

Q: Why not?

* * *

A: I don't recall contacting somebody to find out where they lived or whatever else.

To me, I filled out the check tracking form. A lot of what we do, we receive thousands of checks. I think we received more than a million checks last year. You'd fill out the tracking form.

If there's over -- if there is -- if it is drawn on a U.S. bank account, that would suffice. If somebody had a question about it as it went through the process, they'd bring it back to me . . . .[56]

Later, Mercer continued:

Q: Earlier when we were talking about his check-tracking process and we were talking specifically about these checks that showed an Indonesian home address, if I recall, you said you'd put down the information on the check-tracking form and you'd send it through the system, and if any red flags came up, you'd expect that they'd bring it back to your attention; is that correct?

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56 *Id.* at pp. 218-19.

A: Yeah, that's correct.

Q: Who in your mind was the person who would raise the red flags relating to the information on the check-tracking form and the checks?

A: In my mind, it would be anybody that was of a superior to me, or who I reported to or legal counsel or -- you know.[57]

In short, although Mercer plainly had received some training and was provided with legal guidelines, he still thought that someone, presumably in the Office of General Counsel, was reviewing new contributions as a matter of course. Needless to say, this understanding was incorrect.

In fact, Mercer's immediate supervisor, Sullivan, always understood that a two-step screening process was supposed to be in place at the DNC: "I was told that there was sort of a two-step process. All checks of $10,000 and above are automatically run through a Lexis-Nexis check by staffers in the . . . Research Department, and that there was also additional review by the Legal Department . . . As you know, Lexis-Nexis was primarily appropriate/inappropriateness, you know, because it was explained to me Lexis-Nexis doesn't necessarily determine whether a check's legal or illegal, and so then there was then a review as to legality by the Legal Department."[58] This understanding was essentially consistent with the 1994 vetting process, which involved the collaboration of Rumi Matsuyama of the Research Division and Neil Reiff from the Office of General Counsel.[59] As discussed, even this modest system was dismantled. Although Sullivan knew that he was "to use [his] best judgment in avoiding potential problems," he also believed that "once the check

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[57] Deposition of David Mercer, May 27, 1997, p. 14.

[58] Deposition of Richard L. Sullivan, June 5, 1997, pp. 92-93; *see also id.* at pp. 95, 120-21.

[59] *See supra*, notes 8-14 and accompanying text.

was passed on, this process took place."[60] He was not aware of any change in this process until after the 1996 election.[61] Clearly, top DNC fund-raisers were unaware that they bore primary -- indeed, exclusive -- responsibility for raising concerns about potentially illegal contributions.

The fact that Mercer and Sullivan were unaware that they bore exclusive responsibility for legal vetting is unsurprising; they were not told about the dismantling of the old research system. A short passage from Sandler's testimony confirms this:

> **Q**: Let me go back to my prior question and I believe the answer, with all due respect, is a yes or no answer.
>
> At the time that Ms. Matsuyama left the DNC and was no longer -- and no one was any longer doing a NEXIS or an FEC database research, were people within the Finance Division apprised of the fact that these searches were no longer being automatically done?
>
> **A**: Not that I'm aware of.
>
> **Q**: So, you yourself certainly never apprised them of that; is that accurate?
>
> **A**: That's accurate.[62]

Moreover, even assuming that individual fund-raisers were aware that they were the first and last line of defense against illegal contributions, charging them with such final responsibility would itself be reckless and unreasonable. Fund-raisers seek funds. DNC fund-raisers obviously wanted credit for soliciting contributions.[63] The DNC kept track of contributions credited to individual fund-

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60 Deposition of Richard L. Sullivan, June 5, 1997, p. 93.

61 *Id.* at pp. 97, 124.

62 Deposition of Joseph E. Sandler, August 21, 1997, pp. 95-96.

63 *See, e.g.*, Deposition of David Mercer, May 27, 1997, p. 53.

raisers.[64] Presumably, successful fund-raisers could expect appropriate remuneration or recognition. Making the fund-raiser responsible for legal vetting of contributions creates a conflict of interest. Fund-raisers want to raise money, not reject it. And this common-sense proposition could never have been more true than it was in 1996 for the DNC, given the White House's enormous appetite for money.

This inherent conflict of interest is the second fatal flaw with the alleged "legality" screening described by Sandler and Reiff. Mercer's testimony underscores that a fund-raiser is not the best person to vet contributions for legality:

> My responsibility was to work within the parameters of the guidelines that are outlined and you have copies of, which I submitted via the subpoena. My job was not to work in compliance and verify every single check, its origin, the source of the money and everything else. We work in this environment on the good faith and the understanding of the people we work with. If someone within our -- within the DNC had responsibility for checking into that, I don't know who it was. I presumed that whether through legal counsel or others, that those kinds of things would be detected or that people would question or what have you. I had never been -- it had never been brought to my attention about any question of checks prior to the stories breaking in October. But my job was as a fund-raiser to raise the money and to make sure that the check-tracking forms were filled out and to submit the check-tracking forms.[65]

Although Sandler would not agree that the alleged system for vetting contributions for "legality" at the DNC labored under an inherent conflict of interest, he recognized that "in retrospect we've separated the function now."[66] He further acknowledged that "as a matter of good policy and

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64 *Id.*

65 *Id.* at pp. 27-28 (emphasis added).

66 Deposition of Joseph E. Sandler, August 21, 1997, p. 77.

practice . . . it was appropriate to have those functions . . . in a separate Compliance Division rather than in the Finance Division."[67]

Conclusion

The Committee concludes, as any reasonable observer must, that the DNC's system for vetting contributions during the 1996 election was wholly inadequate. Most DNC officials agree with this much of the Committee's conclusion. For example, Joe Sandler explained what the DNC perceived as deficiencies in its 1996 system: "[T]here was not automatic screening of contributions for appropriateness and legality of every donor not well-known to the DNC above a certain dollar threshold. It was instead a perceived deficiency . . . that it had instead been left to the judgment of individual members of the finance and/or accounting staffs to identify problems of that nature and bring them to the Office of General Counsel."[68]

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[67] *Id.* at 78.

[68] Deposition of Joseph E. Sandler, May 15, 1997, pp. 65-66. Sandler was even more explicit about the vetting deficiencies in his comments to the press. The following paragraphs from a July 1997 article, which focused on Sandler, are interesting:

> What happened, Sandler says, is that "the person who was doing the research work wasn't replaced." That key job involved ensuring that contributions were not coming from inappropriate sources like ex-cons, foreign nationals, or people with insufficient resources.
>
> Instead, says Sandler, the screening process came to depend on members of the finance staff bringing questions and problems to Sandler's office. "That clearly was a mistake, and the automatic background checks should have been continued," he says.
>
> When asked whether anyone warned in some formal way that fund-raisers should look more critically at the money they were raising, Sandler

DNC National Finance Director Richard Sullivan concurred, adding additional context:

> [T]here was not an adequate legal or compliance system set up to back up in an historic effort in terms of the aggressiveness of the fund-raising, and throw into there the fact that ... we throw John Huang into an aggressive fund-raising operation with no -- with a poor compliance system and no legal vetting. This is what happened.[69]

Undoubtedly, the DNC should have been more vigilant and preserved its vetting procedures -- especially in the face of such historic, aggressive fund-raising.[70]

> demurs. "This is an area I probably should not comment on in detail because it's of interest to the investigators," he says.

Timothy J. Burger, "The DNC's Fall Guy?" *Legal Times*, July 14, 1997, p. 16. As discussed earlier, the fund-raisers were not told that they were the last line of defense. The article also quotes an anonymous "knowledgeable Democratic operative" as saying, "I blame this whole thing on Joe." *Id.* at p. 15.

69 Deposition of Richard Sullivan, June 25, 1997, pp. 120.

70 Furthermore, the DNC's non-existent vetting procedures were unique; Democrats cannot protest that "everybody does it." When Senator Glenn questioned Richard Sullivan, the following colloquy took place:

> **Senator Glenn**: Well, I guess what I am getting at is this: I wondered if you had knowledge of what kind of a system they [Republicans] had set up. Was the system on the Democratic side very similar to theirs? Was ours more extensive than theirs? Was theirs more extensive than the one [on] the Democratic side? Do you have any opinion on that?
>
> **Mr. Sullivan**: As to what kind of system, Senator?
>
> **Senator Glenn**: As to vetting these things, making sure that campaign contributions were legal, deciding which ones should be returned, deciding whether we are going to go after foreign money or not. ... was the system that they had set up similar to the one that you have been describing a little bit here?
>
> **Mr. Sullivan**: Unfortunately, Senator, I'm sorry to tell you, but their system was much more systematic, complex, and thorough than our system.

* * *

The DNC now has a new compliance system, one very similar to the "vetting desk" in place during the 1992 election cycle. This may go a long way toward diminishing the risk of future fund-raising scandals -- provided the DNC keeps its system in place. As for the 1996 federal elections, however, the new system came too late. As DNC Chairman Don Fowler testified, the new system "was the equivalent of closing the door [of] the barn after the horse left . . . ."[71]

The interesting question is how the barn door was opened in the first place. Although it may be convenient to blame the DNC's Office of General Counsel for simple negligence, as Sullivan explicitly did,[72] the conduct appears worse than negligent, and the responsibility vests at a level above the general counsel. After all, the members of the Office of General Counsel were concerned about the dismantling of the vetting system, and Reiff had "the impression" that Sandler had raised these concerns with higher-ups.[73] It is no coincidence that vetting was dismantled during a period of

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> **Mr. Sullivan**: In your question of comparing the legal vetting of the two committees, it's my understanding that the Republican National Committee's was much more thorough. I don't know that for a fact, obviously, but that's just my sense.
>
> **Senator Glenn:** Okay. In that opinion, what would back that up, what observation? Do they have different layers of people that vetted these things? Do they have different lawyers, different legal staffs? How would their system be different from the one that the Democratic National Committee used?
>
> **Mr. Sullivan**: I think you described it. I think they had a much -- I think they had a much more thorough -- I think a much more thorough system of vetting of a committee of lawyers, as I understand it.

Testimony of Richard Sullivan, July 9, 1997, pp. 36-37, 40.

71 Fowler deposition, p. 351.

72 Deposition of Richard Sullivan, June 25, 1997, pp. 119-20.

73 *See supra,* note 39.

historic need for money to pay for unprecedented advertising, resulting in huge amounts of foreign and other illegal money. In fact, it appears that the DNC made a decision to operate under a "system" that would turn a blind eye towards questionable contributions, allowing the DNC to receive large, illegal contributions without any accountability for their receipt in the event that they were detected. In the absence of any sanctions deterring such behavior,[74] the DNC, run by the White House,[75] consciously disregarded the prospect of illegal contributions.

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[74] *See* the section of this report on the FECA for a discussion of the sanctions that should be available to the FEC to deter such activity in the future.

[75] *See* the section of this report on the White House's control of the DNC.