

Appendix

A. Positions Most Relevant for Political Targeting

Main Justice

The most important positions related to political targeting in the Justice Department (outside of the investigative agencies discussed below) are the AG, Deputy AG, Associate AG, Assistant AG of the National Security Division, Assistant AG of the Civil Division, Assistant AG of the Tax Division, Deputy Assistant AG for Criminal Matters at the Tax Division, Deputy Assistant AG for Civil Matters at the Tax Division, Assistant AG for the Criminal Division, Principal Deputy Assistant AG for the Criminal Division, and the 93 U.S. regionally-based Attorneys. The first six positions listed and the USAs are all Senate-confirmed. Senatorial courtesy plays a significant role for the USAs, especially outside of Washington, D.C. and New York City.

Law enforcement agencies

Within the federal law enforcement community, the relevant investigative agencies that could most readily be misused to surveil or investigate an opponent include: FBI, the Drug Enforcement Administration (DEA); the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Homeland Security Investigations division of Immigration and Customs Enforcement (ICE/HSI), the U.S. Secret Service's investigative division, and the Park Police. The first three are part of the Justice Department; the Secret Service and ICE/HSI are part of the Department of Homeland Security; and the Park Police are part of the Department of the Interior. Of all these entities, the FBI is by far the most relevant when it comes to political targeting. At the FBI, the most relevant positions are: Director (a Senate-confirmed position), Deputy Director, Executive Assistant Director for National Security, Assistant Director for the Counterintelligence Division, Assistant Director for the Counterterrorism Division, Executive Assistant Director for Cyber, Assistant Director of the Criminal Investigative Division, Director of the Terrorist Screening Center, and 56 SACs and Assistant Directors in Charge (ADICs) of field offices. All but the Directorship are reserved for civil servants, and seniority is an important consideration in selection. Likewise, in practice the Director is often a Bureau veteran.

The relevant entities at the DEA are the Organized Crime Drug Enforcement Task Force (OCDETF) and Special Operations Division (SOD); these DEA-run entities can unlock considerable resources and maintain closely guarded lists of individuals under investigation. The main purpose of these lists is deconfliction, but some link analysis may also be done. The Secret Service's investigative division has a narrow mandate – counterfeiting and some aspects of cybercrime – that is essentially unrelated to its better-known protective mission. ATF also has a narrow mandate, as its name implies, that would make it harder to use for political targeting, and it also labors under congressionally imposed constraints designed to protect gun ownership. The potentially relevant positions at ATF would be the Director, the Assistant Director of Field Operations, the three regional Deputy Assistant Directors of Field Operations, and the 25 SACs. The Director is a Senate-confirmed position, and the others are reserved for civil servants. The Secret Service is of somewhat greater interest than it would otherwise be

because its Director is uniquely not subject to Senate confirmation; being head of the president's protective detail is a common path to Director. The Park Police also have a rather specialized role, but they do have investigative powers, and Park Police are cross-deputized as peace officers in some states and localities (including the capital). The Chief of the Park Police is a civil servant, normally from within the agency.

The Federal Air Marshals Service (FAMS), which operates semi-autonomously within DHS's Transportation Security Administration combines "patrol" functions with "investigative" functions, constitutes another marginal case. In theory FAMS could be used to harass a political opponent (for things she did on an airplane on inside the sterile zone inside an airport) or investigate her for threats against civil aviation, but these would be highly unusual situations. If they were to be included, the relevant posts would be the Director of FAMS, the Deputy Director of FAMS, and the approximately 20 Supervisory Air Marshals in Charge. All these posts are reserved for civil servants.

In addition to the federal investigative agencies, certain "patrol" law enforcement agencies (e.g., U.S. Customs and Border Protection) and non-law enforcement security agencies (e.g., the Transportation Security Administration) are relevant, because a prominent opponent could well have interactions with them. The most relevant elements are CBP's Office of Field Operations, TSA screeners at airports, and TSA's management of the No Fly and Selectee lists. The most relevant positions at CBP are the Commissioner (who is Senate-confirmed), the Executive Assistant Commission of Field Operations (who is a civil servant), the heads of the 20 field offices, and the Executive Director of the National Targeting Center (who is a civil servant).

The U.S. Coast Guard could theoretically be relevant, despite the fact that it is technically a military service branch, because it has non-military missions and authorities and because it is part of DHS rather than the Department of Defense. The most relevant positions within the Coast Guard are the Commandant, Vice Commandant, and Assistant Commandant for Intelligence and Criminal Investigations. The Commandant is a Senate-confirmed position, but he or she by statute must be a serving Coast Guard officer. No Coast Guard positions are listed in the *Plum Book*.

Another marginal case is the U.S. Marshals Service (which falls under the Department of Justice). U.S. Marshals have broad arrest powers for federal crimes and could theoretically be deployed selectively to intimidate opponents. However, Marshals are focused on protecting dignitaries and government facilities, transporting prisoners, and executing warrants. They are thus more relevant to politically-motivated law enforcement actions not related to targeting specific opponents (such as serving, in some dystopic future, as "eyes and ears" at opposition rallies). The relevant posts would be the Director (a Senate-confirmed position), the Deputy Director (a civil service post), and the 94 Senate-confirmed Marshals. Senatorial courtesy looms large in selection of the last group.

There are a number of other federal law enforcement agencies that would not normally interact with potential political opponents – the Federal Bureau of Prisons, the Bureau of Indian

Affairs' Office of Justice Services in the Department of the Interior, the National Oceanic and Atmospheric Administration's Office of Law Enforcement, the National Nuclear Security Administration, etc. – even if they have some investigative authorities. Others are so highly specialized or possess such limited authorities that they are unlikely to be relevant to political targeting; examples include the Department of Interior's Fish and Wildlife Service and the Office of Export Enforcement within the Department of Commerce's Bureau of Industry and Security. Although such entities could be used to pester adversaries of the Administration who enjoyed hunting ducks or owned a firm that might have violated restrictions on the sale of dual-use technologies, such cases would be highly unusual.

A number of other specialized, static protective agencies (the Smithsonian Institution Office of Protective Services, the Mint Police, the Pentagon Force Protective Agency, the Mount Weather Police, etc.), as well as law enforcement agencies outside of Executive Branch control (e.g., the Capitol Police and the SCOTUS Police), are not relevant for political targeting as conceived here.

Intelligence agencies

Among the parts of the Intelligence Community not discussed elsewhere (e.g., the National Security Division of the FBI), the most relevant entity is arguably the quasi-civilian National Security Agency (NSA), because its cyber and interception capabilities could be used against domestic opponents if the checks currently in place were evaded. The CIA is also potentially significant, despite its limited domestic authorities and operations, because it could be used unlawfully to surveil, hack, or furnish derogatory information on American citizens. DHS's Intelligence and Analysis directorate (I&A) is part of the Intelligence Community and was used during the Trump Administration to *collect* intelligence, even though DHS policy now prohibits it from doing so.

Various other agencies within the Intelligence Community – such as the Defense Intelligence Agency (DIA), the National Geospatial-Intelligence Agency (NGA), and some smaller, specialized entities in other Departments – have missions and capabilities that make them less liable to be involved in political targeting. For instance, although the DIA (like the FBI) conducts some domestic counterintelligence work, unlike the FBI it has no law enforcement authorities.

Of greater relevance are entities within the Intelligence Community that create or manage lists of individuals (including U.S. citizens) who are known or suspected terrorists or are regarded as threats to civil aviation. These agencies include the National Counterterrorism Center (NCTC), which falls under the Director of National Intelligence, and the Terrorist Screening Center (TSC), which is housed within the FBI but is in fact a multiagency operation in practice. Most civilian agencies that would be involved in nominating U.S. citizens to TSC's watchlist (known formally as the Terrorist Screening Database, or TSDB, which is the main source for derived lists like the No Fly List) are already noted above. I do not separately consider separately agencies that *use* the TSDB-derived data, unless they would otherwise merit discussion.

Other agencies

Of other government agencies, the most relevant is the Internal Revenue Service (IRS), both because tax authorities are frequently employed by authoritarian leaders and because the IRS was used as a political tool during the Nixon Administration (Dykes 2013). Other specialized organs of the Treasury Department such as the Financial Crimes Enforcement Network (FinCEN), have quasi-investigative and enforcement roles that could be misused. FinCEN data may also be used by itself other agencies for link analysis, which in turn could have adverse law enforcement consequences for individuals. The most relevant positions at Treasury are thus Secretary, Undersecretary for Terrorism and Financial Intelligence, Assistant Secretary for Terrorist Financing, and Director of FinCEN. The first three of these positions are Senate-confirmed and the last must be occupied by a civil servant.

Two regulatory agencies with enforcement authorities could theoretically be used to harass private sector opponents: the Environmental Protection Agency (EPA) and the Occupational Health and Safety Administration (OSHA). The most relevant positions there would be the Assistant Administrator for Enforcement and Compliance Assurance at the EPA and the Assistant Secretary for OSHA at the Department of Labor. Both of these are Senate-confirmed positions. The narrow focus of regulatory entities that deal with mining makes it unlikely they would be against a political opponent.

The various independent regulatory commissions (the Securities and Exchange Commission, the Federal Election Commission, the Federal Trade Commission, the Federal Communications Commission, etc.) are unlikely instruments of political targeting. These entities could potentially be used to harass an adversary; for instance, during the Watergate scandal, under White House pressure the FCC rescinded several broadcasting concessions owned by the *Washington Post*. However, independent regulatory commissions are not subject to direct presidential authority. Among other things, commissioners serve fixed, staggered terms rather than at the pleasure of the president.

Implicitly, General Counsels and IGs (both of which are normally subject to Senate confirmation) are treated here as part of the oversight apparatus. However, IGs could themselves be used to target opponents of the incumbent who worked in the Executive Branch. IGs, after all, are no more angels than any other officials, and some have gone famously off the reservation (*inter alia* Department of Justice 2020).

White House positions

As the relevant parts of the West Wing and even the staffs housed in the Eisenhower Executive Office Building are essentially reinvented every Administration, it is more difficult to specify certain positions at the White House.

Summary

Table A1 lists these posts most likely to be implicated in political targeting. In this table, bold font indicates the most crucial positions. Italicized font indicates Senate-confirmed positions.

This table does not include senior policy staff positions in the bureaucracy, whether political appointees or civil servants, nor White house posts.

Table A1: Posts in the U.S. bureaucracy most likely to be used for political targeting

Department/Agency	Posts of interest
Department of Justice (DOJ) headquarters (“Main Justice”)	<ul style="list-style-type: none"> • Attorney General (AG) • Deputy AG • Associate AG • Assistant AG, National Security Division • Assistant AG, Civil Division • Assistant AG for Tax Division • Deputy Assistant AG for Criminal Matters, Tax Division • Deputy Assistant AG for Civil Matters, Tax Division • Assistant AG for the Criminal Division • Principal Deputy Assistant AG for the Criminal Division • <i>93 USAs</i>
Federal Bureau of Investigation (DOJ)	<ul style="list-style-type: none"> • Director • Deputy Director • Executive Assistant Director for National Security • Assistant Director, Counterintelligence Division • Assistant Director, Counterterrorism Division • Executive Assistant Director of the Criminal, Cyber, etc. Branch • Assistant Director, Criminal Investigative Division • Director, Terrorist Screening Center (TSC) • 56 SACs and Assistant Directors in Charge (ADICs) of field offices
Drug Enforcement Administration (DOJ)	<ul style="list-style-type: none"> • Administrator • <i>Deputy Administrator</i> • Head of Special Operations Division (SOD) • Director of the Executive Office of the Organized Crime Drug Enforcement Task Force (OCDETF) • Head of OCDETF Fusion Center • 21 SACs
Director of National Intelligence (DNI)	<ul style="list-style-type: none"> • Director • <i>Principal Deputy Director</i> • <i>Director of the National Counterterrorism Center (NCTC)</i>
National Security Agency (Department of Defense)	<ul style="list-style-type: none"> • Director • Deputy Director • Director of Signals Intelligence
Central Intelligence Agency (CIA)	<ul style="list-style-type: none"> • Director • Deputy Director • Deputy Director of Operations / National Clandestine Service • Head of the Center for Cyber Intelligence

Department of Homeland Security (DHS) headquarters	<ul style="list-style-type: none"> • Secretary • <i>Deputy Secretary</i> • <i>Under Secretary of Intelligence and Analysis (I&A)</i>
U.S. Customs and Border Protection (DHS)	<ul style="list-style-type: none"> • Commissioner • Executive Assistant Commissioner, Office of Field Operations (OFO) • 20 heads of field offices • Executive Director, National Targeting Center (NTC)
Immigration and Customs Enforcement (DHS)	<ul style="list-style-type: none"> • <i>Director of Immigration and Customs Enforcement (ICE)</i> • Executive Associate Director, Homeland Security Investigations (HSI) • 30 SACs
U.S. Secret Service (DHS)	<ul style="list-style-type: none"> • <i>Director</i> • Deputy Director • Head of Office of Investigations
U.S. Coast Guard (DHS)	<ul style="list-style-type: none"> • <i>Commandant</i> • Vice Commandant • Assistant Commandant for Intelligence and Criminal Investigations
TSA (DHS)	<ul style="list-style-type: none"> • <i>Administrator</i> • Deputy Administrator
Department of the Treasury, headquarters	<ul style="list-style-type: none"> • <i>Secretary of the Treasury</i> • <i>Undersecretary for Terrorism and Financial Intelligence</i> • <i>Assistant Secretary for Terrorist Financing</i> • Director, Financial Crimes Enforcement Network (FinCEN)
IRS (Department of the Treasury)	<ul style="list-style-type: none"> • Commissioner • Deputy Commissioner of the IRS for Services and Enforcement • Chief, Criminal Investigation Division • 21 SACs
Interior Department	<ul style="list-style-type: none"> • Chief of the Park Police

B. Not-so-hypothetical scenarios

The four scenarios presented in the text were stylized versions of actual incidents, some of which have been reported in the press. Contrary to my initial expectations, my conversations with officials (see Section C) uncovered no clear-cut examples of political targeting during the Trump Administration other than the widely reported attempt to have Hunter Biden's role in Burisma Holdings investigated. I did, however, hear numerous accounts of improper orders from that Administration that did not necessarily entail political targeting as defined here; most of these have already become public in some form or fashion. I heard no clear-cut reports of political targeting from the George W. Bush or Obama Administrations, though at least one interviewee considered Crossfire Hurricane to have been grossly improper. I found no evidence to indicate that the IRS's improper targeting of conservative groups during the Obama Administration was encouraged by the White House or presidential appointees in the bureaucracy.

The scenario presented in the text involving investigation of a political opponent by a USA represents a composite of incidents described by officials who had worked at the Justice Department. Those incidents entailed what might be interpreted as targeting of individuals, albeit not for reasons primarily based on their being political opponents of the Administration. That said, I did not hear of any fully credible, clear-cut accounts of a “show me the man, I’ll find you the crime” situation.

The reverse targeting scenario presented in the text was based loosely on the now-public controversy surrounding Crossfire Hurricane. This investigation involved surveillance (including wiretapping) of individuals from the Trump campaign, at a time when Donald Trump was the main opponent of the incumbent Administration. One particularly troubling element of that investigation was FBI lawyer Kevin Clinesmith’s (apparently inadvertent) falsification of information that was then used to obtain a warrant against a Carter Page – an act which ultimately resulted in Clinesmith’s criminal prosecution. Another troubling element of Crossfire Hurricane was the use of the notorious “Steele dossier”, itself based on highly unreliable and privately funded opposition research, in the FISA warrant application. Unlike the scenario presented in the text, Crossfire Hurricane and many other counterintelligence investigations involved more than just electronic surveillance, for which FISA Court approval is not required; this case thus raises broader questions about the potential for abuse in such operations. There is, however, no evidence that the Obama White House had any role in the initiation of Crossfire Hurricane.

The scenario on searches at a port of entry was inspired by a legal program that did not target political opponents but rather focused on a particular category of undesirables. (The precise details of this program are law enforcement sensitive.) I have not heard of any example of customs or immigration authorities being used for political targeting in the United States. Border controls are, however, frequently used in this way in other countries.

The scenario related to dumping a journalist’s phone was inspired by a case at DHS I&A during the Trump Administration that ultimately became the subject of a congressional investigation (see Harris 2020). Although the actual operation did not specifically target any one individual, it did call attention to potential abuses at I&A. There is no evidence that these actions were instigated or endorsed by the White House or DHS leadership at the time.

President Trump’s request that Ukrainian President Volodymyr Zelensky investigate Hunter Biden during their notorious July 25, 2019 phone call was clearly improper and was also clearly designed to target a relative of Trump’s main political opponent. However, because the request was transmitted to a foreign official, it does not fall within the scope conditions for this article. One way to adapt it would be to imagine that President Trump had instructed a U.S. *official*, rather than his personal lawyer, to follow up with Zelensky or had asked a U.S. official to make the request of Zelensky in the first place. It does not appear, as of this writing, that officials in the State Department, National Security Council staff, or the Justice Department other than

Gordon Sondland followed up on Trump's request. This request was viewed as highly improper by several officials at the time, with then-National Security Advisor John Bolton describing it as akin to a "drug deal" (Vindman 2021). There appears to have been considerable pushback against President Trump's improper effort to exploit relations with Ukraine in the service of an electoral campaign. This resistance came mainly from civil servants and to a lesser degree from some political appointees.

Another incident I considered using was President Trump's 2018 request that his staff be wiretapped in order to find out the source of leaks. Senior officials resisted this illegal request, which eventually came to nothing. (See Taylor 2019.) It should be noted that other presidents have also employed or attempted to employ equally extraordinary and improper measures to prevent leaks, though the Biden Administration (uniquely) appears to have taken a gentler approach (see Barrett 2021).

One other extremely troubling incident during the Trump Administration was President Trump's reported promise to pardon certain senior officials in the Department of Homeland Security if they, at his command, acted illegally in some aspects of immigration enforcement. This incident provides further evidence of the potential for abuse resident in the president's unconditional pardon power; however, it did not involve political targeting.

C. Sources and Methods

Publicly available sources relevant to political targeting in the United States

Background material for this article included a broad review of scholarly research, popular press accounts of whistleblowers, memoirs written by former government officials, articles and books by journalists, Congressional hearings, GAO reports, and a comprehensive read of publicly available IG reports from the relevant agencies. Only a portion of this background material ended up being cited; the rest simply provided a useful foundation for the research and offered general insights into the world in which American officials operate. As of June 2021, I found no clear-cut cases of political targeting (as defined here) in IG audits, IG investigations, or whistleblower retaliation reports from DHS, the FBI, or the Department of Justice over the last decade. Nor did I find useful examples of political targeting in GAO reports or congressional hearings. (My sampling of congressional hearings was not comprehensive across agencies and focused on the relevant oversight committees.)

Records of Senate confirmation hearings for nominees to positions described above were highly revealing in the extent to which these sessions focus on fidelity to the Constitution, the willingness of nominees to report properly to Congress, and the general bipartisan tenor of the hearings. My sample of these hearings was haphazard but included a large number of cases. For scholars seeking a flavor of the process, three interesting examples are the confirmations of (1) Bill Casey for CIA director in 1981, which was supported by all members of the relevant committee except then-Senator Joe Biden, (2) Courtney Elwood, who received unanimous Committee support to serve as CIA General Counsel in 2017; and (3) Chris Wray, who received near-unanimous support in the Senate to serve as FBI Director that same year.

Because nearly everything leaks in the end, books by journalists (such as Carol Leonnig, Ron Kessler, Tim Weiner, Bob Woodward, etc.) contain some useful information on incidents involving the relevant agencies. These books generally incorporated material that had already appeared in press reporting, often by the authors. Some insider accounts (e.g., Taylor 2019 and Vindman 2021) were also valuable. Naturally, none of these sources can be taken as gospel. For instance, Weiner's work on the FBI and CIA (2008, 2012) covers many relevant episodes, but it does not always meet academic standards of rigor for sourcing and verification (see *inter alia* Rosenfeld 2012, Dujmovic 2007). As one example, a 2009 interview of former FBI agent Daniel F. Blesdoe (which is paraphrased uncritically in Weiner 2012) is considered confabulated by John Dean (who had intimate knowledge of other aspects of Watergate as both a co-conspirator and, later, as a scholar), and Beldsoe's 2009 account of the incident does not clearly track his contemporaneous written notes from 1973. If some care is taken in reading and checking Weiner's work, however, it is a useful source for examples of political targeting from Watergate and before. Other useful material can be found in the tape recordings of Nixon's and Johnson's tenures, as well as in Woodward and Bernstein (2014) and Kutler (1997). Examples of improper behavior of various kinds can also be found in the records of government investigations into the Lewinsky Affair, the Iran-Contra Scandal, Watergate, and President Trump. Of course, problematic behavior was hardly limited to those instances.

Conversations and interviews

The main material for Section 4 consisted of discussions with current and former officials in law enforcement, homeland security, and the IC. These discussions included dozens of casual conversations with officials and former officials in which the relevant issues were discussed but without an attempt to systematically apply an interview guide, as well as a half dozen interviews in which an interview guide (see below) was more strictly applied. In many cases, I already knew the individuals I interviewed; in cases where I did not know them before discussing these issues, my experience in government helped to establish my bona fides and create trust. This trust was reinforced by the fact that, even if we had not met, we often had friends or colleagues in common.

In addition to publicly available materials and interviews, Section 4 was informed by my own experiences in the national security side of government. This experience consisted of three postings of 8 months to 20 months each, at different points over a period of 14 years. They included political appointment in a *Plum Book* position in the bureaucracy, appointment as a Special Government Employee-Expert (i.e., a glorified consultant) in the bureaucracy, and a stint in the White House as a low-level official. These experiences served as a useful foundation for further research on these issues, as well as a source of connections for conversations and interviews with officials.

Informants included both political appointees and civil servants. All informants had served in the White House, Intelligence Community, Department of Justice, or DHS, and almost all had served in more than one of these places and were familiar with others. Many had testified before congressional committees and almost all had been involved in Hill briefings. DHS and

National Security Council staff were overrepresented compared to the Department of Justice and West Wing staff.

Interlocutors were chosen by direct personal acquaintance and referral at one or two degree of separation. This approach obviously did not approximate random sampling. That said, the sample did end up capturing important variation among officials. For instance, it included Democrats and Republicans, civil servants and political appointees, appointees who had worked at the White House as well as those who had worked in the bureaucracy, and individuals from different parts of the security apparatus. Most importantly, it included officials who have actually faced orders of dubious legality (not necessarily related to political targeting), as well as officials who have held similar positions at similar agencies but have not been confronted with such orders. One informant was intimately involved in a specific whistleblower complaint; another had been contacted by the IG in relationship to an inquiry but had not been the original complainant. In terms of representativeness, the most notable failing was that none of the informants could be considered a true “Trump Republican”. For instance, one individual who had served in the George W. Bush Administration, voted for Trump twice, contributed to his general election campaigns, and would have accepted a post in the Trump Administration nevertheless considered himself a “Trump skeptic”.

Of the six purposively chosen interviewees, three had worked in multiple agencies, and one had worked on the Hill in addition to the Executive Branch. Formal interviews began with chit-chat to establish rapport. The ground rules for the discussion, which were as generous as possible in order to instill trust and reduce social desirability bias, were then covered. Substantive conversation began with broad questions about the interviewees’ experiences and what difficult decisions they had confronted. If political targeting or something akin to it did not come up, the subject was introduced with a hypothetical scenario related to their work. (For instance, “Imagine you are sitting at your desk, the phone rings, and it is X from the White House, who asks you to do Y.”) The parameters of the scenario were then varied. For instance, if an interviewee said he would first speak with his boss when receiving an order outside the chain of command, one follow-up would be whether he would do the same thing if he mistrusted or did not get on well with his boss; another would be what he would do if his boss reinforced the improper order.

Formal interviews were conducted by Zoom during the COVID pandemic. To build rapport with interviewees, I often offered personal experiences that indicated a realism about the context in which officials operate and a general lack of prudishness. If interviewees seemed reticent to discuss a subject, the form of question was changed to the third person. (For instance, “It’s clear that *you* would not do that, but what do you think someone else in your position would do?”). Discussions with people whom I already knew well were casual, often convivial, and usually embedded in larger conversations about the homeland security enterprise. In both conversations and interviews, I matched the conversational style of my interlocutors.

Interview guide

For formal interviews, I relied on the following “flow of show”.

- Preamble on purpose of conversation
 - Ground rules: deep background
- Basic professional background of interviewee
- What is the most problematic instruction you have received in any of these positions?
 - How did the instruction reach you? How did you approach it? What did you know about the individual making the request?
 - Any other problematic instructions?
- [If examples were not problematic] What is the most problematic order you could imagine someone in your position receiving?
 - [Follow-ups specific to political targeting]
- Imagine an order that was so egregious that you could not possibly carry it out. Would you report it? Under what circumstances? To whom?
 - [Additional follow-ups as needed.]
- Let's imagine a person in position similar to the one you hold /held who is asked to do ___[insert various scenarios].
 - What should someone do?
 - What do you think they would do?
 - If they would do it, what motivated them? If they would not do it, what motivated them?
 - Additional follow-ups as needed, varying parameters:
 - If the person giving the order was a mentor
 - If you didn't trust your boss?
 - If you didn't trust the lawyers
 - Etc.
- Other adjacent issues
- Can we talk again if need be? Would you like to review the resulting manuscript?
- Suggestions for other interviewees?
- Wrap-up

Reflexivity

Researchers inevitably have biases; however, they can attempt to mitigate the impact of these biases on their conclusions (and to alert readers about where to be skeptical) by articulating and wrestling with their priors about a topic – a practice known as “reflexivity” (Barry et al. 1999, Koch and Harrington 1998, Nicolson 2008).

In terms of preconceptions, my central bias was a deep and abiding suspicion of President Trump's commitment to the rule of law, which was shared by several of my interlocutors (including some who had worked in his Administration). Cognizant of this bias, I made sure to challenge interviewees' claims about episodes in the Trump Administration, rather than simply accept such claims uncritically, and to dig deeper in an effort to uncover potentially improper incidents during other Administrations.

One useful device to stimulate reflexivity in qualitative work is Duneier's (2011) "ethnographic trial". This self-examination invites researchers to imagine what questions they would most dread being asked in a cross-examination by a "prosecutor" who knew every detail of their field work. For instance, researchers might have nagging concerns about the candor of a particular source, their possible misinterpretation of a scene they encountered in their field, or the degree of their reliance on particular episode in drawing their conclusions. My own ethnographic trial, I believe, would focus on whether I had interviewed a large enough sample of individuals from main Justice (that is, the headquarters offices of the Department of Justice) or the IRS to fully understand all the nuances of how unlawful orders would be handled there. I am more confident of my knowledge of the Intelligence Community and very confident of my understanding of DHS.

Ethical considerations in the research

My home institution does not require prior approval for conversations and interviews in which no harm can come to subjects and no deception is used. All conversations and interviews related to this project fell into that category.

Of course, IRB guidelines do not address all potential ethical issues that qualitative scholars confront, including confidentiality. I treated all my conversations as confidential and refer to all sources in sufficiently oblique terms that even insiders could not identify them. Notes were either not kept, were destroyed after the manuscript was prepared, or were so thoroughly scrubbed and reduced that they consisted of just a few lines which could not possibly be used to identify an interlocutor.

The need for confidentiality can conflict with reproducibility. The easiest way to manage this tension would be for me to extensively discuss the research with any scholar who wished to reproduce this study, in order to give more detail on specific interviewees (without compromising their confidentiality) and, with interviewees' permission, introduce the scholar to them.

I declare no conflicts of interest related to this article.

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