

# United States Senate

WASHINGTON, DC 20510-4904

September 15, 2009

The President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Mr. President:

From the beginning of your administration, you have made an admirable commitment to transparency and open government. You showed the strength of your commitment by sending a memorandum to the heads of executive departments and agencies within a week of your inauguration, stating: "My administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use."

As you know, there has been much discussion about your decisions to create and assign apparently significant policy-making responsibilities to White House and other executive positions; many of the persons filling these positions have come to be referred to in the media and even within your administration as policy "czars." I heard firsthand about this issue on several occasions from my constituents in recent town hall meetings in Wisconsin.

The Constitution gives the Senate the duty to oversee the appointment of Executive officers through the Appointments Clause in Article II, section 2. The Appointments Clause states that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, *other public ministers and consuls*, judges of the Supreme Court, *and all other officers of the United States*, whose appointments are not herein otherwise proved for, and which shall be established by law." (Emphasis added.) This clause is an important part of the constitutional scheme of separation of powers, empowering the Senate to weigh in on the appropriateness of significant appointments and assisting in its oversight of the Executive Branch.

As a member of the Senate with the duty to oversee executive appointments and as the Chairman of the Constitution Subcommittee of the Senate Judiciary Committee, I respectfully urge you to disclose as much information as you can about these policy advisors and "czars." Specifically, I ask that you identify these individuals' roles and responsibilities, and provide the judgment(s) of your legal advisors as to whether and how these positions are consistent with the Appointments Clause. I hope that this

information will help address some of the concerns that have been raised about new positions in the White House and elsewhere in the Executive Branch, and will inform any hearing that the Subcommittee holds on this topic.

Thank you for considering my views on this important matter. I very much appreciate your commitment to transparency and open government and look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell D. Feingold". The signature is fluid and cursive, with the first name "Russell" being the most prominent part.

Russell D. Feingold  
United States Senator