

# Reflections of a Forensic Psychiatrist in Washington: Politics and Policy

Renée L. Binder, MD

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I walked into the lobby of the Hart Senate Office Building and looked up at the imposing black metal Alexander Calder sculpture that extended from the lobby to the eighth floor of the building. I was about to begin a seven-month health policy fellowship with the goals of participating in the political process and gaining an insider's perspective about how government really works. I entered the seventh-floor office where my designated small cubicle was located. I sat down at my desk with my computer and small television set with mainly C-Span channels. I met all the bright, energetic people who worked as legislative assistants (LAs), fellows, and press secretaries. I was soon to realize that these individuals, who were mostly in their 20s and 30s, were responsible for developing policy for the United States.

Each LA and fellow specializes in one or more areas, such as environment, defense, economy, health, social policy, and foreign policy. Constituents, advocacy groups, and lobbyists come to Congress hoping to meet with senators or representatives. Usually, they meet with the relevant LA or fellow, instead of the member of Congress. During my first two weeks, I met with groups of people from home health equipment companies, child sexual abuse response teams, and health maintenance organizations. Each group promoted the value of its services and lobbied for more funds or for minimizing cuts in funding of its services. The groups distributed material that described how effective their programs were.

For example, the home health equipment group lobbied against the notion of competitive bidding and used the analogy that if one's mother needed an appendectomy, one would not choose a hospital or a particular physician because he or she was the cheapest.

The LAs also write opinion editorials (op-eds) on behalf of members of Congress. One day, a particularly effective op-ed concerning the role of the United States in Iraq was published in the *Washington Post* and signed by a senator. Everyone in the senator's office stopped by the cubicle of the fellow who worked on foreign policy issues and congratulated him on writing an excellent op-ed piece. All the staff members knew that the fellow, and not the senator, had written the article.

I learned that when a member of Congress or a candidate for office tells a joke or uses a pithy phrase in a speech, the words were most likely written by the press secretary or the speech writer in his or her office. Together with staff members, I was watching a televised speech given by a senator in which he told a joke that did not elicit any laughter from the crowd. Some of the staff members turned to the senator's press secretary and jokingly said, "Did you write that? It just went flat!" The press secretary shrugged his shoulders as if to say that he had done his best.

Staff members work long hours, including evenings and weekends, depending on the needs of the senator. An LA who worked in a Senate office almost missed her sister's wedding because it occurred at a time when there was much activity on the Senate floor. Staff members also address a variety of other needs of legislators. When Senator Mikulski (who is

Dr. Binder is Professor of Psychiatry and Director, Psychiatry and the Law Program, University of California, San Francisco, CA. Address correspondence to: Renée L. Binder, MD, Psychiatry and the Law Program, 401 Parnassus Avenue, San Francisco, CA 94143-0984. E-mail: renee@itsa.ucsf.edu

short-statured) gave a speech at a reception, some of her staff arrived carrying a box on which she could stand. Someone told me that this has been referred to as the “Boxer” box, after the diminutive Senator Barbara Boxer from California.

One senses the pervasiveness of power on Capitol Hill. I felt it when lobbyists tried to influence my opinion about legislation, assuming that I could influence how the senator would vote. I felt it again when I was asked to contact an important and usually inaccessible person for information. When I said that I was calling from a senator’s office, I was immediately put through. It is hard to deny that I felt important. And when I asked all the LAs in the office where I worked what they liked most about being an LA, their responses included: “It is fun to be in the middle of current events”; “I feel that I can change the world”; “I want to have an impact on government”; “I like taking on a fight and making it into an event and a political issue”; “I like being able to make law or kill a bad law.”

This sense of importance is reinforced by the fact that Congress makes decisions about huge amounts of money that will potentially affect millions of people. I understood this the day that I recommended that legislation to address racial and ethnic disparities in health care be supported. As is typical, I was asked how much money such a measure would cost. I sheepishly said that the bill would cost \$150 million. The Legislative Director responded: “That’s not bad! I was afraid you were going to say that it would cost several billion dollars, like you said other bills would cost.” Many initiatives cost billions, rather than millions of dollars. For example, while I worked on Capitol Hill, Congress passed a bill that authorized an additional \$87 billion of spending in Iraq. It also passed the Medicare prescription drug bill that involved spending \$40 billion each year. The amount of money for each piece of legislation that is supported is carefully monitored. When a legislator wants to get re-elected or is running for another office, opponents will often add up how much money the legislator wanted to spend on various projects. One reason for this is to discredit a reputation as a fiscal conservative.

The Legislative Director asked me to analyze a bill on emergency contraception that would force every hospital that treated rape victims to provide emergency contraception. If a hospital did not provide emergency contraception to women who sought

treatment after being sexually assaulted, federal funds would be withheld from the hospital. I was lobbied by representatives from Planned Parenthood and the National Abortion Rights Action League (NARAL) to have the senator support this legislation. I was reminded that members of Congress are rated by NARAL. Pro-choice legislators pride themselves on having a high rating. Votes about this particular legislation would partially affect one’s NARAL rating. The lobbyists presented their arguments about why this bill should be supported. In general, a rape victim is taken to the nearest emergency room for treatment following a sexual assault. The lobbyists pointed out that it seemed unfair that a woman might be forced to have an unwanted pregnancy depending on which emergency room happened to treat her.

I investigated the arguments against this legislation by calling several Catholic health and hospital organizations to try to understand their point of view. The lobbyists explained to me that the Catholic Church is opposed to abortion and that emergency contraceptive medication is considered an abortifacient. According to the Catholic religion, a human life begins at conception. Emergency contraception works by preventing implantation. Since this occurs after conception, the Catholic Church views this as an abortion. Catholic hospitals will not give women anything that would abort a human life.

I presented these arguments to the senior staff members in the senator’s office: the Legislative Director and the Chief of Staff. They were concerned that if the senator voted for this legislation, there might be headlines in the papers about how he was responsible for the closure of Catholic hospitals. No hospitals would be able to survive financially after the withdrawal of federal funds. Since the Catholic hospitals would not dispense emergency contraception, they would be subject to withdrawal of federal funds and would be shut down. There was concern that there would be significant political fallout if this bill were supported. I wrote a memorandum to the senator that delineated the arguments for and against supporting the bill and recommended that he support it. The senator, however, made the decision not to support it. I felt disappointed but understood that political ramifications are important factors in determining positions on issues. Catholic hospitals provide invaluable services to many constituents, and it would be harmful to shut them down.

When my recommendation about supporting the emergency contraception bill was not adopted, I was reminded of how I sometimes have felt as a forensic consultant when an attorney who has retained me does not accept my analysis of a case. I accept that I am not the decision-maker and that the attorneys must decide how they want to present a case. I am a consultant, and I give the most informed opinion that I can about the relevant psychiatric issues. I cannot become overly invested in whether my opinion is adopted. The attorneys have many considerations to balance, similar to members of congress when congressional staff members advocate for a position on legislation that the member may or may not adopt.

On another occasion, the Legislative Director asked me to develop a position statement about medical marijuana. A compassionate use program that allowed physicians to prescribe medical marijuana was discontinued in 1991 under the Bush administration. Proposition 215, legalizing medical marijuana, was passed in California in 1996. There were threats by the federal government to revoke the licenses of physicians who prescribed marijuana. There had been recent reports in the media about law enforcement raids on the homes of patients who used medical marijuana.

I reviewed the controversy related to the use of medical marijuana. I read information written by advocates and spoke to two physicians in San Francisco who treat many patients with AIDS. I was told that medical marijuana is very helpful for patients with severe nausea and vomiting, severe pain, anorexia, muscle wasting, and painful muscle spasms. These symptoms occur in terminally ill cancer patients and AIDS patients and also in some patients with multiple sclerosis or spinal cord injuries. I also read opposing positions. Opponents say that it is currently possible for a physician to prescribe Marinol, a pill that contains one of the active ingredients of marijuana, THC. Supporters of medical marijuana allege that Marinol is not as effective as smoked marijuana, because it causes more side effects and it works more slowly than the smoked form of the drug.

I reviewed the position of the Institute of Medicine (IOM), which had considered all the available studies on medical marijuana and issued a report concluding that medical marijuana should not be recommended as the treatment of choice for any disease. The report expressed concerns about the nega-

tive effects of smoked marijuana and pointed out that marijuana smoke delivers harmful substances to the body, including those found in tobacco smoke. It also pointed out that plants could not provide a precisely defined drug effect. In addition, the report stated that political constraints have hampered scientific studies to prove or disprove the useful effects of marijuana. There needed to be further research about whether medical marijuana was effective because the studies were generally nonconclusive and the treatment was potentially harmful. The report recommended that a rapid onset cannabinoid drug delivery system should be developed and made available to patients. I also reviewed the stance of the American Medical Association (AMA) and found that it was similar to that of the IOM.

Both the IOM and the AMA supported short-term use of medical marijuana for patients for whom there was no alternative, such as patients who had debilitating symptoms and for whom all approved medications had failed and relief of symptoms could not be reasonably expected. For these patients, medical marijuana should be administered under close medical supervision and the guidance of an institutional review board.

Based on my review, I wrote a memorandum to the senator that included all the background information. I recommended that the senator distinguish himself from the stance of the current administration and support limited physician-supervised use of medical marijuana to treat medical conditions when other options do not work. Also, drug enforcement agents should not aggressively target medical users. This recommendation was accepted! I now better understood the excitement experienced by District of Columbia workers who have had impact on the political decision-making process.

I also worked on the 2003 Medicare prescription drug bill. I learned that members of Congress pay attention to which groups support or oppose a bill, especially those groups with large and powerful constituencies. Proponents of a bill try to garner the support of important groups. The AMA supported the Medicare prescription drug bill after effectively lobbying for a provision that halted impending Medicare payment cuts to physicians and replaced the proposed cuts with small increases. The AARP had been trying to get a prescription benefit for its members for years and ultimately decided to support the bill. However, the AFL-CIO opposed the final

bill. The unions were very concerned that the Medicare bill would lead to employers' dropping their retiree health benefits, especially because obtaining retiree coverage is a major reason that workers join unions. Members of Congress who won elections through strong union support were influenced to vote against the bill.

I received many phone calls about the Medicare prescription drug bill from concerned constituents. The Chief of Staff asked me daily: How do the majority of constituents feel about this bill? Are they in support or are they opposed? Who are most of the calls from: supporters or opponents? I argued that the scientific validity of relying on the number of calls as a reflection of the opinions of constituents was questionable. For example, there was an erroneous report in the *Washington Post* that the Senator was in support of the bill. Therefore, most of the calls were from opponents trying to get him to change his vote. Supporters of the bill probably felt that it was not so important to lobby a senator who was in support of their position. Thus, counting the calls was not a reliable way of determining how most constituents felt. Nevertheless, the number of calls in support and in opposition was factored into the decision-making process.

Senators and representatives also relied on the results of national surveys. The AFL-CIO sponsored a survey of retired people and asked them their opinion of the proposed Medicare prescription drug bill. The AARP sponsored a similar survey. The two surveys reported differing results. As is true in other surveys, the results depended on how the questions were formulated and what the political position of the group sponsoring the survey was. For example, questions on the AFL-CIO survey included items such as: Did you know that retirees might lose their current health coverage if the Medicare bill is passed? Now that you know that, how supportive are you of the bill? Not surprisingly, support decreased. The AARP sponsored survey posed questions such as: Did you know that the Medicare bill would give prescription drugs to our poorest and sickest seniors? Now that you know, how supportive are you of the bill? Not surprisingly, support increased. Legislators' decisions are partially based on what their constituents want. Politicians want to be liked by their constituents. This is especially true when they are up for re-election or when they are running for another office.

I attended a caucus meeting of Democratic senators who considered themselves to be Medicare supporters. At this meeting, some senators argued that the final bill represented a "half of a loaf that could be built upon," while other senators argued that the bill was so bad that, "it shouldn't see the light of day." At this caucus meeting, there was also a discussion about the impact of voting for the bill's defeat on constituents' support for Democratic candidates. One senior member of the Senate stated that the public relations campaign should emphasize that Democrats wanted to save Medicare from destruction by Republicans. Another senator agreed and quoted a poll that said most Americans felt that Democrats were more supportive of Medicare than Republicans.

I also helped develop the health policy platform for the presidential campaign. Before there is release of a platform about any issue, there are multiple levels of review. Key people in the campaign office reviewed the initial draft of the health policy platform. Afterward, health economists reviewed the draft to delineate the costs and make suggestions for lowering the costs. Senior campaign staff reviewed the health policy platform again. The next step was to send the proposed plan to "validators"—health policy experts throughout the United States. I called the potential validators and asked them three questions: Are you willing to review the health policy platform and make comments? Are you willing to keep the details confidential and not release the details to the other candidates or to the press before it is officially released? Are you willing to be quoted by name or would you prefer that your involvement remain anonymous? (Some validators were unwilling to have their name and their support listed for a specific candidate.) Some of the validators received the entire plan, and some received only parts of the plan—for example, the part related to children or mental health, depending on the expertise of the validator. Subsequently, political consultants and pollsters commented on the health policy platform. Was the plan too complicated? Would the plan be seen as favorable by a significant proportion of voters?

After staff and consultants reviewed the plan, it was finally given to the candidate for his comments and his approval. Then, staff chose an appropriate roll-out date and location. The intent was to obtain wide press coverage at an accessible location that would also present a photo opportunity. The chosen location was a multiethnic and multiracial school

that included an excellent school-based health center and was close to Washington, D.C. The development of school-based health centers was a part of the health policy platform, and this location highlighted that aspect of the plan.

I learned that political stances in campaigns are determined not only by the political philosophy and personal beliefs of the candidate, but also by the strong influences of polls and political realities. What do most voters want? What do the large financial contributors want? If a candidate is known for fiscal responsibility, what will a new initiative cost? Even if something is a good idea, will it be too costly? For example, in developing the health policy platforms for each candidate, there had to be many compromises. Obviously, the more expensive a plan is, the more benefits can be offered and the more people can be covered.

Candidates try to distinguish themselves from all the other candidates. For example, after all the candidates came out with their health policy platforms, I helped prepare a chart that delineated the similarities and differences. All the other candidates had similar charts prepared, and most of the charts were placed on each candidate's Web site. At other times, it may be better if a candidate is not too controversial and goes along with traditional Democratic stances. I was told that one of the candidates who serves in Congress based his vote on the controversial Medicare bill on whether it was wise to take a position in opposi-

tion to all the other candidates and then have this be the focus of all the subsequent presidential debates. The alternative, which in some ways was safer politically, was to take a stance consistent with the other candidates. In the latter case, this stance would be a nonissue during debates with the other candidates.

Consultants are also widely used on the campaign trail to help develop policies and to advise candidates about how to dress and how to modify their patterns of speech. The goal for candidates is to use simple forceful language that will be easily understood and quoted in the press. I spoke to one of the consultants who was a Hollywood producer. He told me how he helped one of the candidates practice his speaking style and tried to get the candidate to edit his words in his head.

As I left Washington D.C. and returned to my regular university job, I thought about what I had learned. I had been able to participate in the political process. I felt the excitement of trying to influence public policy and of being in the center of important national decisions. I also had learned about the complexity of decision-making by members of Congress and political candidates. Specifically, I appreciated better that in the decision-making process, a politician's own personal beliefs about what is right and wrong are often overshadowed by political factors. As one of the staffers in the office said to me, "You need to keep your expectations in the real world."