SYMPOSIUM

Political Scientist as Practitioner

Louis Fisher, *The Constitution Project*

Those who write for this symposium faced two choices in their careers: producing highly specialized articles with little application to government controversies or devoting themselves to public policy and making contributions to it. They chose the latter. I want to explain my approach and also give recognition to the accomplishment of other scholars who have been engaged with contemporary issues. All of them are eminently comfortable in maintaining the original commitment of political science to public law. At the risk of overlooking deserving scholars, I also identify others who decided to orient their research to thinking about and helping to resolve government issues.

My major in undergraduate work at the College of William and Mary was chemistry. Concerned about being a "science major," whatever hours I devoted to chemistry, physics, and calculus I set aside for history, philosophy, novels, and poetry. In September 1956 I began graduate work at Johns Hopkins in physical chemistry. Within a few weeks I was advised to pick one of five subtopics in physical chemistry. I chose atomic and molecular spectra, making me more uncomfortable about this level of specialization. At the end of my first month it appeared I would be working with a professor on phosphate bonds. It was too much for someone who had just turned 22. I left Hopkins, spent two years in the Army, five months hitchhiking around Europe, and after 10 months in Midland, Michigan, with Dow Chemical, accepted a writer's job in Manhattan in September 1960. It felt really good. I also began taking undergraduate classes in the social sciences. That met my needs also.

I have always liked the idea of a "calling." If you listen carefully and are willing to take some risks and change course, you can find the occupation designed for you that will bring inner happiness. Closely related to this experience is the notion of "kismet," but the dictionary defines it narrowly as something of chance (one's portion or lot). The word comes from the Arabic *qismah*. Someone born in Iraq told me *qismah* refers to that tiny spot in the universe reserved for you. It is your niche. A lovely word. It comes from the French verb *nicher*, to nest. A cozy place set aside for you.

My doctoral work at the New School from 1963 to 1967 focused on presidential economic power: proposals to transfer authority to the president to make discretionary decisions over taxing and spending for countercyclical policy. I had to analyze issues of delegation of power, congressional prerogatives, separation of powers, checks and balances, fiscal-monetary coordination, full employment policy, stabilization policy, business cycles, leading indicators, credit policy, and constitutional law. The New School encouraged interdisciplinary work and mine bridged political science, economics, history, and law.

As assistant professor at Queens College, I realized after a few years that fulltime teaching did not satisfy me. I wanted to apply my research to public issues and the place to do that, with my interests, was Washington, DC. One of my professors at the New School was former Senator Paul Douglas, who had chaired the Joint Economic Committee. I took many classes with him and thrived under his guidance. He wrote a very positive letter of recommendation for me to the Library of Congress. In 1970 I accepted a position with Legislative Reference Service just as it was changing its name to Congressional Research Service. My first book, *President and Congress: Power and Policy* (1972), drew heavily from my doctoral dissertation. Over the years, I continued to write books to make my findings available to a wider audience: scholars, lawmakers, and the general public. I was frequently invited on C-SPAN and NPR to discuss political and legal issues. I testified regularly before House and Senate committees.

I never thought professional analysis could be done with a partisan slant. Part of the CRS mission is nonpartisan work, but my work was nonpartisan before I joined the Library of Congress and has remained nonpartisan after my retirement. When President Truman went to war against North Korea by seeking support from the Security Council but not from Congress, academics should have publicly attacked his initiative as a violation of the UN Participation Act, which required congressional approval for any use of US troops in a UN military operation. Instead, driven by partisan motivations, historians like Arthur M. Schlesinger, Jr. raced to Truman's defense. Years later, as author of *The Imperial Presidency*, Schlesinger offered some apologies for his lack of scholarly integrity. That came too late. The time to confront presidential illegality is when it happens, not decades later.

Although I worked for Congress, I never felt an obligation to defend everything that Congress did. If a bill encroached on presidential power, as I believed the Gramm-Rudman deficit control bill did, by placing executive power in the hands of legislative officials, I testified that the bill was unconstitutional, as it was later found to be by the Supreme Court. If a bill encroached on judicial power, as I believed an item veto bill did by enabling the president to delete judicial items, I testified against it because I did not want judicial power weakened by the executive branch which is in court more than any other party. A letter from the executive director of the Administrative Office of US Courts thanked me for upholding judicial independence. My commitment to checks and balances led me to defend all three branches, not just one, and to speak bluntly when I thought Congress was acting unconstitutionally. Many of those experiences are described in my recent book, *Defending Congress and the Constitution* (2011).

On one occasion, a Republican member of a House committee suggested during a hearing that my constitutional

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analysis was designed to satisfy the needs of the committee chairman, Jack Brooks, Democrat from Texas. I told the Republican member that if he were the chairman my testimony would be unchanged. I was one person, offering my views on policy and constitutional matters. I was not two persons hoping to satisfy both parties.

After taking positions on a variety of constitutional issues for more than three decades, CRS management in January 2004 directed its analysts to adhere to a new policy of "neutrality," both in their agency reports and in their outside writing. Previously, CRS management had often told me I was an ideal senior specialist for the kinds of analysis I had done, including testifying for and against legislation and explaining the reasons for my conclusions. No one in CRS management raised any objections to my outside writing, even when my books were decidedly not "neutral" even in its title, such as *Congressional Abdication on War and Spending* (2000). Suddenly I came under fire for publishing "Deciding on War in Iraq: Institutional Failures" in *Political Science Quarterly* in 2003. I was critical of the executive branch, the House, the Senate, Democrats, Republicans. Nothing about the article was partisan. To its credit, the Office of General Counsel of the Library of Congress defended my right to publish the article. Eventually, in March 2006, I was transferred to the Law Library where I recovered my intellectual freedom and continued to testify for and against legislation.

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I now turn to the seven scholars who comprise this symposium. They have closely studied the relationship between political science and public policy. After World War II, with the rise of behavioralism and an emphasis on quantitative techniques, political science began to lose its initial commitment to studying government broadly, including law, economics, history, and diplomacy. Gradually over the years the discipline disengaged from those disciplines, resulting in ever-narrowing products with less relationship to government and public policy. Happily, the seven scholars discussed here retain a broad commitment to political science as originally conceived. The next section discusses other political scientists who have made major contributions to public policy and have been personally involved with elected officials and experts within executive agencies.

THE SEVEN CONTRIBUTORS

Among my colleagues at CRS is Walter Oleszek, who joined the Library in 1968. Over his career at CRS, he served either as a fulltime professional staff aide or consultant to every major House and Senate effort at congressional reorganization, beginning with the Legislative Reorganization Act of 1970. In 1993, he served as policy director of the Joint Committee of the Organization of Congress. In addition to those contributions, he taught on a regular basis as adjunct professor at American University and wrote the most widely adopted textbooks in colleges and universities across the country for Congress and legislative policymaking. They include such key works as *Congressional Procedures and the Policy Process* (now in its ninth edition) and his coauthored *Congress and Its Members* (fourteenth edition). With Roger Davidson he wrote *Congress Against Itself* (1977) and with C. Lawrence Evans published *Congress Under Fire: Reform Politics and the Republican Majority* (1997). Another co-authored book, with Lawrence Longley: *Bicameral Politics: Conference Committees in Congress* (1989).

Where did Walter get the energy to do this? I hazard a guess from my own experience at the Library of Congress. Working in a stimulating and nourishing environment does not drain energy. It adds to it. Members of Congress and their staff value Walter's clear speaking and writing style, his personal integrity and reliability, and his dedication to the legislative branch. Some of us in CRS used to joke that if we depended on our supervisors for a sense of self-worth we would be committed to an institution. That fate was unnecessary. On a daily basis we received generous appreciation from lawmakers, staff, and committees. We were part of something broad and significant.

The experience of Mitchel Sollenberger at CRS deserves mention at this point. During my time at the Library of Congress, I was very impressed with his initiative, intelligence, and curiosity. He loved to locate original documents (some from archival sources) and place them in a new context—political, legal, and historical—with fresh meaning. Mitch thinks and speaks clearly, without jargon or pretentiousness. His book with University Press of Kansas, *The President Shall Nominate: How Congress Trumps Executive Power* (2008), represents a major addition to the fields of presidential power, congressional oversight, and constitutional law. A second book, *Judicial Appointments and Democratic Controls* (2011) with Carolina Academic Press, makes him the go-to person for working with the Judiciary Committees and testifying at legislative hearings. With Mark Rozell he published *The President's Czars: Undermining Congress and the Constitution* (2012), again with

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Kansas Press. Another significant work in terms of scholarly credentials and insightfulness.

Robert Spitzer's scholarship on the veto power in 1988 (*The Presidential Veto: Touchstone of the American Presidency*) led directly to congressional invitations to testify on the item veto and on the claim that the president somehow possessed an "inherent" item veto that originated in 1789 and therefore required no statutory authority or constitutional amendment. His blunt and vigorous analysis demolished both concepts. I was happy to provide an introduction to his 1988 book. Bob and I first met as part of a touring party to the Supreme Court, underscoring our interest in the judiciary and constitutional law. His work in public law continued with solid research on the Second Amendment and the right to own guns. Frequently Bob collides with professors of law on this issue and invariably his research repudiates their claims and assertions. On matters of gun ownership he is regularly quoted in the press and is a natural selection to be called before congressional committees to testify. As with other contributors to this symposim, he confidently analyzes issues of public law.

David Gray Adler has been a leading scholar on war powers and foreign policy, pointing out how claims of plenary presidential power over war initiatives are contrary to constitutional and republican principles advanced by the framers. His contributions include a co-edited work on *The Constitution and the Conduct of American Foreign Policy* (Kansas Press, 1996) and various articles rejecting the "sole-organ" doctrine announced in misrepresentions by Justice George Sutherland in the 1936 *Curtiss-Wright* case. A significant article in the *UCLA Journal of International Law and Foreign Affairs* in 2007 explained how the concept of unilateral and "inherent" executive control of foreign policy after the terrorist attacks of September 11 was "intolerable" and was never within the sights of the framers. A powerful writer who grounds his work in original documents and careful analysis, Dave confronts academics (both political scientists and lawyers) who assign too much authority to the president. Currently he is director of the Andrus Center of Public Policy at Boise State University.

Nancy Kassop has been exceptionally active in applying political science to public issues. She often enrolls in seminars to deepen her knowledge, such as the National Security Law Summer Institute at the University of Virginia Law School. I recall driving home one night from the Library of Congress in a drizzly rain, knowing that a block away Nancy and her daughter were huddled under a plastic sheet awaiting oral argument the next morning at the Supreme Court. She has been particularly active in studying the history and practice of the White House Counsel's office, the scope of the president's war power, and legal aspects of counterterrorism policy in the George W. Bush and Obama administrations. She co-authored an essay on the Counsel's office for the White House Transition Project in 2000 and 2008, and has participated numerous times as a member of the interview team for the Presidential Oral History Project at the Miller Center, University of Virginia. Among her other professionals duties, she is book review editor for *Presidential Studies Quarterly*.

Jasmine Farrier's two books explore central issues of congressional power. In *Passing the Buck: Congress, the Budget, and Deficits* (2004), she analyzed the claim of legislative reassertion with the Congressional Budget Act of 1974. What she discovered, instead, is a record of legislative deference and acquiescence, including giving the president a line-item veto in 1996. She is no less harsh on presidential performance, finding no evidence that the executive branch is inherently better at controlling spending and budget deficits. *Congressional Ambivalence: The Political Burdens of Constitutional Authority* (2010) continues her exploration into delegated authority, focusing this time on base closures, international trade, post-September 11 issues of national security, the PATRIOT Act, and the Iraq Resolution of 2002. Jasmine's course-load is exceptionally broad, covering the presidency, Congress, and constitutional law. In journal articles, edited books, conference papers, and book reviews she provides additional analysis on a range of contemporary institutional and constitutional issues.

Bruce Peabody's education prepared him to look broadly at issues of public policy. His undergraduate degree at Wesleyan featured an interdisciplinary program in government, economics, history, and social theory, while his doctoral work at the University of Texas at Austin focused on public law, American politics, and political theory. He has been active since that time in writing articles for law reviews and edited books on such issues as constitutional interpretation, statutory interpretation, the Twenty-Second Amendment, term limits, overcoming judicial supremacy, civil liberties and terrorism, and separation of powers. Bruce finds time to write numerous op-eds for newspapers and blog entries for sites such as Huffington Post, The Hill's Congress Blog, and SCOTUSblog. As editor and contributor to *The Politics of Judicial Independence: Courts, Politics, and the Public* (2011), he invited a number of scholars to offer views on the impact of politics on judicial independence. The general theme: courts are a proper study of political study and critiques, they are not "apolitical," and are better described as interdependent with other branches.

OTHER PRACTITIONERS

Looking at the list of APSA's program on Congressional Fellows is one way to spot political scientists who decided to come to Washington, DC, for a year to see government close up. For many, the experience led to a career devoted to public service. Loch Johnson was a Fellow in 1969–70, working for Senator Frank Church. He kept in touch with Church, traveling to Idaho in 1974 to help with his reelection campaign and a year later was invited to join the professional staff of a new committee chaired by Church to study domestic spying by the CIA. Service on other congressional committees followed, including the House Intelligence Committee. In short order, Johnson built a national reputation for his expertise on the intelligence community and was frequently called to testify before congressional committees and help with their investigations. In the 1990s, he worked in a senior capacity for the Aspin-Brown Commission, which conducted another inquiry into the nation's secret agencies. His thoughts on the latter are captured in *The Threat on the Horizon: An Inside Account of America's Search for Security After the Cold War* (2011), one of about 20 books he has written or edited on the intelligence agencies. Loch writes with singular grace, clarity, and analytical

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depth, always at liberty to state his conclusions and explain why.

Two other Congressional Fellows, Thomas Mann and Norman Ornstein, served in 1968–69. With Mann at Brookings and Ornstein at the American Enterprise Institute, they formed a team over subsequent decades in providing analytical support to Congress. Tom specializes in campaign finance, politics and elections, and congressional redistricting. He has testified on such issues as the filibuster, House ethics, campaign finance, lobbying reform, biennial budgeting, and term limits. With Norm, he has published a number of books. On June 4, 2012, they appeared on *The Daily Show* to discuss their new book, "It's Even Worse Than It Looks," which speaks to their appeal to both a scholarly and general audience. Norm writes a weekly column for *Roll Call*, is an Election Eve analyst for *CBS News*, and served as senior counselor to the Continuity of Government Commission. His articles appear in the *Washington Post*, *New York Times*, and *Wall Street Journal*. In congressional testimony he has analyzed many issues, including the balanced budget amendment, item veto, homeland security, and election process reform.

James Thurber served as a Congressional Fellow in 1973–74 and since that time has been a mainstay in assisting Congress through his position at American University. He is the founder and director of the Center for Congressional and Presidential Studies (CCPS) at the university and is currently editor of *Congress and the Presidency*. CCPS organizes biannually the Campaign Management Institute and the Public Affairs and Advocacy Institute. Thurber was the principal investigator of a seven-year grant from the Pew Charitable Trust to study campaign conduct. He was the principal investigator of a four-year study of lobbying and ethics, funded by the Committee for Economic Development. Several of his books concentrate on campaigns and elections. Jim will soon publish the fifth edition of his book *Rivals for Power: Presidential-Congressional Relations*, which invites more than a dozen scholars and former members of Congress to discuss public policy.

Marcia Lynn Whicker was a Congressional Fellow in 1974–75 with Cong. Joe Moakely. Later she joined the Senate Budget Committee as part of its professional staff. Those of us who knew Marcia marveled at her energy and breadth. In a memoriam for her in the June 1999 issue of *Presidential Studies Quarterly*, Betty Glad and Ray Moore summarize some of her academic achievements: a doctorate in political science, an MS in economics, a MPA degree, a BA degree in political science and economics, and an associate's degree in electronic engineering. Marcia worked for a number of federal and state government agencies. She authored, co-authored, or edited 16 books, covering health policy, economic regulatory policy, making America competitive in a global economy, and *The Constitution Under Pressure* (1987). She served on the editorial board of *Presidential Studies Quarterly* and as its book review editor. Her death on March 23, 1999, was a great loss to those of us who knew her well.

Jeffrey Biggs became a Congressional Fellow in 1984–85, joining the offices of Cong. Thomas Foley and Senator Alan Simpson. Previously he served 21 years in the US Foreign Service in Brazil, Portugal, and Bolivia. From 1987 to 1994, he became then-Majority Leader and later-Speaker of the House Foley's press secretary and spokesman. Biggs served as senior adviser to the President's Office of National Drug Control Policy. With Foley, he wrote a wonderful book called *Honor in the House: Speaker Tom Foley* (1999), which provides excellent insights into what it is like to serve in Congress. Starting in 1997 and continuing until the present, Jeff became director of the APSA Congressional Fellowship Program. His duties include having the Fellows intern at various legislative offices and to arrange for speakers throughout the year. He wrote *A Congress of Fellows: Fifty Years of the American Political Science Association Congressional Fellowship Program, 1953–2003.*

Another Congressional Fellow, Jessica Korn, interned in 1995–96. At that time she was teaching at the University of Massachusetts at Amherst and completing her book *The Power of Separation: American Constitutionalism and the Myth of the Legislative Veto*, published by Princeton University Press in 1996. Much of the research on the book was done while a research fellow at the governmental studies program of the Brooking Institution, in 1990–91, as guest scholar for various periods from 1991 to 1993, and again in the fall of 1995. From Alan Morrison, who represented Jagdish Chadha in the legislative veto case, *INS* v. *Chadha* (1983), she took a seminar at Harvard Law School and learned about separation of powers jurisprudence. During the writing of the book, she was able to publish parts of it in *Harvard Journal on Legislation*, *Polity*, and *Political Science Quarterly*.

As a Congressional Fellow in 2002–03, Frances Lee worked with the Senate Democratic Policy Committee and Cong. Jim Cooper. She joined the faculty of the University of Maryland in the fall of 2004. Much of her focus is on American governing institutions, especially Congress. Author of *Beyond Ideology: Principles of Partisanship in the U.S. Senate* (2009), she is also co-author (with Bruce Oppenheimer) of *Sizing up the Senate* (1999) and co-author (with Roger Davidson and Walter Oleszek) of *Congress and Its Members*, now in its fourteenth edition. Frances has received a number of awards for her publications and doctoral dissertation. With Eric Schickler, she edited *The Oxford Handbook of Congress* (2011). She served as president-elect of the National Capital Area Political Science Association (NCAPSA) in 2010–11 and as president from 2011–12. A major purpose of NCAPSA is to bring together academic political scientists with political scientists and policymakers who work in public service.

While on the subject of NCAPSA, the current president is Don Wolfensberger. He served as a staff member in the House of Representatives for 28 years, beginning as legislative director for his home district Congressman, John B. Anderson (R-Ill.), from 1969 to 1978. In 1979, Anderson named him minority counsel on the House Rules Committee's Subcommittee on Rules. He filled other positions on the committee and eventually became its chief of staff. He is author of *Congress and the People: Deliberative Democracy on Trial* (2000), which explores the competition between representative government and the movement toward initiatives and referendums. As a senior scholar at the Woodrow Wilson International Center for Scholars, Don also has a regular column that appears in *Roll Call*. In 2012, he testified before the

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Senate Committee on Homeland Security and Governmental Affairs on ways to improve the performance of Congress.

Elizabeth Boles served as president of NCAPSA from July 2010 to August 2011, placing an emphasis on promoting greater dialogue and collaboration between journalists and political scientists, engaging doctoral students in professional activities and career development, and furthering creative partnerships with think tanks and nonprofit organizations. From 2000 to 2008, she was founding director of the John Glenn School of Public Affairs (Ohio State University), dedicated to promoting civic engagement, personal and professional leadership training, and sophisticated policy analysis. In recent years, Beth has been an adjunct professor of law at American University's Washington College of Law, teaching a class for upper-level students on "Law and the American Political Process." The course includes lobbying and advocacy, immigration reform, election law, campaign finance reform, hate crimes and bullying, national security policy, civil liberties and privacy, and journalism and the law.

Mark Rozell's book, *Executive Privilege: Presidential Power, Secrecy and Accountability*, was first published by Johns Hopkins University Press in 1994, before moving to Kansas Press, where it is now in its third edition. Rozell took direct aim at Raoul Berger's 1974 *Executive Privilege: A Constitutional Myth*, systematically demolishing its central tenets. With careful scholarship, he not only rebutted Berger but also confronted the other extreme: those who are "infatuated" with the notion of near-total presidential power to withhold documents from Congress and the public. Mark's solid analysis led to three invitations by congressional committees to testify on the Presidential Records Act and executive branch efforts to deny information to Congress. His nine books have impressive range, covering the press in three presidencies (Ford, Carter, Bush I), press coverage on Capitol Hill, the Christian Right in Virginia politics, and his most recent book with Mitch Sollenberger on presidential czars.

Katy Harriger's doctoral dissertation at the University of Connecticut was called "Symbol of Justice: The Federal Special Prosecutor in American Politics." It became the basis for *Independent Justice: The Federal Special Prosecutor in American Politics* (Kansas Press, 1992), now in its second edition with the title *The Special Prosecutor in American Politics* (2000). Katy's leadership and scholarship in this area led to testimony in 1992 on the independent counsel before the Senate Committee on Governmental Affairs. She is co-author with me of *American Constitutional Law*, in its tenth edition with Carolina Academic Press. Among her many initiatives is teaching democratic skills to undergraduate students and getting them to engage more fully in public affairs. With Jill McMillan, she co-authored *Speaking of Politics: Preparing College Students for Democratic Citizenship through Deliberative Dialogue* (2007). She also edited *Separation of Powers: Commentary and Documents*, for CQ Press in 2003.

Nancy Baker has written comprehensive and probing works on the Justice Department, starting with *Conflicting Loyalties: Law and Politics in the Attorney General's Office, 1789–1990* (1992). It offers a rich analysis of how Attorneys General handle two competing demands: political duties as a Cabinet member and quasi-judicial responsibilities as chief law officer of the United States. As with the scholars described earlier, she is fully comfortable in continuing the public law approach that is fundamental to political science. Her second book, *General Ashcroft: Attorney at War* (2006), explores how John Ashcroft after September 11 eroded checks on executive power at the expense of civil liberties, procedural due process, and government transparency. As with her other publications, it offers a blunt and clear critique of what she calls the "normalization of unilateral executive power," an orientation she correctly predicted would continue at the Justice Department after Ashcroft's departure.

As the proverbial last but not least, I turn to James Pfiffner. We met in the mid-1970s when he was working on his first book, *The President, the Budget, and Congress: Impoundment and the 1974 Budget Act* (1979). His approach then—studying an important constitutional issue through the lens of all three branches—guided him on more than a dozen future books he wrote or co-edited. The breadth of his work is quite astonishing, ranging from civil service reform to analysis of presidential power to *Torture as Public Policy* (2010). His book on *The Character Factor* (2004) explores the pattern of how often presidents lie. In 2009, Jim was invited by the Senate Committee on Homeland Security and Governmental Affairs to testify on presidential czars. As with others discussed here, his writing is a model of clarity, usefulness, and solid judgment, studying issues that regularly require expertise in politics, law, economics, and national security.

Space does not permit me to recognize other political scientists who have written important works on political institutions, public policy, and public law, but here are some prominent names: Peri Arnold, Larry Berman, Joseph Bessette, Meena Bose, Thomas Cronin, Jeffrey Crouch, George Edwards, Lee Epstein, Ryan Hendrickson, Christopher Kelley, Martha Kumar, Maeva Marcus, Richard Pious, Jeffrey Tulis, and Stephen Wayne.

Frances Lee brought to my attention two other developments that encourage political scientists to be involved in contemporary public policy. One is the work of John Sides and other founding contributors of "The Monkey Cage," a blog created for the explicit purpose of enlisting political scientists to contribute to public debates (http://themonkeycage.org). Second: Theda Skocpol's efforts as director of the Scholars Strategy Network (SSN), designed to bring together leading scholars to address pressing public challenges. SSN members engage in consultations with federal and state policymakers and make regular contributions to the media. The website: http://www.scholarsstrategynetwork.org/page/what-scholars-strategy-network. ■

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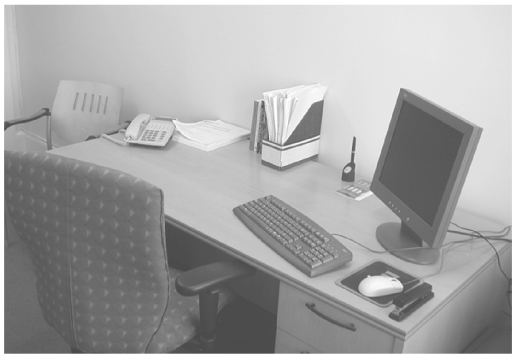
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I enjoyed my stay in Washington D.C. immensely, and the high quality facilities and friendly staff at the Centennial Center made it a great base from which to conduct my fieldwork. I found the facilities to be well located making it easy to travel to my interviews and use the National Security Archive at GWU. Coming to Washington as an international scholar, I found it helpful when securing key interviews to have the support of such a respected organization.

— Emma Briant, University of Glasgow





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